International Labour Conference
89th Session 2001

Report III
(Part 1A)

Third item on the agenda:
Information and reports on the application
of Conventions and Recommendations

Report of the Committee of Experts on the Application of Conventions and Recommendations

(articles 19, 22 and 35 of the Constitution)

General Report
and observations concerning particular countries

International Labour Office Geneva

ISBN 92-2-111951-3
ISSN 0074-6681

First published 2001

The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. A catalogue or list of new publications will be sent free of charge from the above address.

Printed in Switzerland

ATA

CONTENTS

Page

Index to comments made by the Committee, by country ix

Part One. General Report

I. Introduction 3

Working methods 7

II. General 9

Membership of the Organization 9

New standards adopted by the Conference in 2000 and the coming into force of Conventions 9

Policy on standards 10

Ratifications and denunciations 10

Constitutional and other procedures 14

A. Complaints submitted under article 26 of the ILO Constitution 14

B. Representations submitted under article 24 of the ILO Constitution 16

C. Special procedures concerning freedom of association 18

Fiftieth anniversary of the Equal Remuneration Convention, 1951 (No. 100) 18

Functions in regard to other international instruments of universal and regional character 22

A. United Nations treaties concerning human rights 22

B. European treaties 23

Collaboration with other international organizations 24

Cooperation in the field of standards with the United Nations and the specialized agencies 24

Matters relating to human rights 25

Questions concerning the application of Conventions 27

Application of the Forced Labour Convention, 1930 (No. 29) 27

A. Trafficking in persons 27

B. Privatization of prisons and prison labour 29

I. Background 29

II. Views expressed in the Conference Committee 30

1. Present-day relevance of the Convention 30

2. Requirements of Article 2, paragraph 2(c), of the Convention 30

3. Meaning of "hiring to or placing at the disposal of" 31

Page

4. Conditions for private employment of prisoners 31
5. Relevance of other international instruments 32

III. Present-day relevance of the Convention in the light of the ILO Memorandum on Prison Labour and other international instruments 32
1. Rehabilitation: A recent concept? 32
2. The privatization of prison labour: A new phenomenon? 33
3. Relevance of other international instruments 35

IV. Requirements of Article 2, paragraph 2(c), of the Convention 36
1. General discussion 36
2. Prison labour and private entities 39
3. Conditions regarding public authorities and private entities: Cumulative or interchangeable? 40
4. Meaning of the terms "hired to or placed at the disposal of" 41
5. Role of private profit or benefit 42

V. Voluntariness and conditions for private employment of prisoners 43
1. Freely given consent 43
2. Conditions approximating a free employment relationship 44

VI. Concluding remarks 47

Application of the Employment Policy Convention, 1964 (No. 122) 48
Application of Conventions on social security 49
Application of Conventions on child labour 51

III. Technical assistance in the field of standards 52
Direct contacts 52
Promotional activities 52
Multidisciplinary advisory teams and technical cooperation 54

IV. Role of employers' and workers' organizations 55
Observations made by employers' and workers' organizations 55

V. Reports on ratified Conventions (articles 22 and 35 of the Constitution) 57
Supply of reports 57
Reports requested and received 57
Compliance with reporting obligations 58
Late reports 59
Supply of first reports 60
Replies to the comments of the supervisory bodies 61

Page

Examination of reports 62
Observations and direct requests 62
Practical application 63
Cases of progress 64

VI. Submission of Conventions and Recommendations to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution) 69
86th Session 69
87th Session 70
31st to 85th Sessions 70
General aspects 70
Comments of the Committee and replies from governments 71
Special problems 72

VII. Instruments chosen for reports under article 19 of the Constitution 73
Appendix. List of observations made by employers' and workers' organizations 74

Part Two. Observations concerning particular countries

I. Observations concerning reports on ratified Conventions (article 22 of the Constitution) 81
A. General observations 81
B. Individual observations 85
Convention No. 1 85
Conventions Nos. 3, 4 87
Convention No. 5 88
Convention No. 6 89
Conventions Nos. 7, 8 91
Conventions Nos. 9, 10, 11 93
Convention No. 12 99
Convention No. 13 100
Convention No. 14 101
Convention No. 16 102
Convention No. 17 103
Convention No. 18 109
Convention No. 19 111
Convention No. 22 113
Convention No. 23 115
Conventions Nos. 24, 25 116
Convention No. 26 117
Conventions Nos. 27, 29 119
Convention No. 30 167
Convention No. 35 169

	Page
Conventions Nos. 36, 37	171
Conventions Nos. 38, 41	172
Convention No. 42	174
Convention No. 44	181
Convention No. 52	184
Conventions Nos. 53, 55	185
Convention No. 56	188
Conventions Nos. 58, 59	189
Convention No. 60	190
Convention No. 62	192
Convention No. 63	193
Conventions Nos. 67, 69, 71	194
Conventions Nos. 73, 74	195
Convention No. 77	196
Convention No. 78	198
Conventions Nos. 79, 81	200
Convention No. 87	218
Convention No. 88	335
Convention No. 89	339
Convention No. 90	343
Conventions Nos. 91, 92, 94	345
Convention No. 95	350
Convention No. 96	367
Convention No. 97	368
Convention No. 98	374
Conventions Nos. 99, 100	392
Conventions Nos. 101, 102	410
Convention No. 103	426
Convention No. 105	427
Convention No. 106	453
Convention No. 107	455
Convention No. 108	460
Convention No. 111	463
Conventions Nos. 112, 113, 114	503
Convention No. 115	504
Convention No. 117, 118	508
Convention No. 119	514
Convention No. 120	515
Convention No. 121	516
Convention No. 122	522
Conventions Nos. 124, 125, 126, 127	525
Convention No. 128	530

Page

Convention No. 129 534
Convention No. 130 540
Convention No. 131 542
Convention No. 132 550
Conventions Nos. 133, 135 552
Conventions Nos. 136, 137 553
Convention No. 138 554
Convention No. 139 567
Conventions Nos. 140, 141 570
Conventions Nos. 142, 143 572
Convention No. 144 574
Conventions Nos. 147, 148 577
Convention No. 149 580
Convention No. 150 584
Convention No. 151 588
Conventions Nos. 152, 153, 154 590
Convention No. 155 591
Convention No. 156 598
Conventions Nos. 157, 158 601
Convention No. 159 604
Conventions Nos. 160, 161 605
Convention No. 162 607
Convention No. 163 608
Conventions Nos. 164, 165, 166, 167, 168, 169 609
Convention No. 170 614

Appendix I. Table of reports received on ratified Conventions as of 8 December 2000 617

Appendix II. Statistical table of reports received on ratified Conventions as of 8 December 2000 627

II. Observations on the application of Conventions in non-metropolitan territories (article 22 and article 35, paragraphs 6 and 8, of the Constitution) 629

A. General observations 629

B. Individual observations 629

Conventions Nos. 3, 5, 6, 9 629
Conventions Nos. 12, 14, 16, 17 630
Conventions Nos. 22, 23 631
Conventions Nos. 24, 25, 27, 29, 42 632
Conventions Nos. 56, 63 634
Conventions Nos. 77, 78, 81, 82 635
Convention No. 87 636

Page

Conventions Nos. 89, 92, 94, 95 637
Conventions Nos. 97, 100, 101, 106 638
Convention No. 115 639
Conventions Nos. 121, 122 641
Convention No. 127 642
Convention No. 129 643
Convention No. 131 646
Conventions Nos. 135, 136, 137 647
Conventions Nos. 138, 140, 142, 144 648
Convention No. 145, 146, 147, 149 649
Conventions Nos. 151, 160 652

Appendix. Table of reports received on ratified Conventions (non-metropolitan territories) as of 8 December 2000 653

III. Observations concerning the submission to the competent authorities of the Conventions and Recommendations adopted by the International Labour Conference (article 19 of the Constitution) 656

Appendix I. Information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities 677

Appendix II. Overall position of member States as of 8 December 2000 686

Appendix III. Summary of information supplied by governments with regard to the obligation to submit the instruments adopted by the International Labour Conference to the competent authorities 689

Part Three. General Survey of reports concerning the Night Work (Women) Convention, 1919 (No. 4), the Night Work (Women) Convention (Revised), 1934 (No. 41), the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

This part of the report is published in a separate volume as Report III (Part 1B).

Index to comments made by the Committee, by country

The comments referred to below have been drawn up in the form of either "observations" which are reproduced in this report , or "direct requests", which are not published , but are communicated directly to the governments concerned.

Afghanistan	**Part One. General Report, paragraphs nos. 187, 198, 226, 230** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 100, 105, 111, 141, 142** *Direct requests on Conventions Nos. 95, 105, 137, 140* **Part Two III. Observation on Submission**
Albania	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* *Direct requests on Conventions Nos. 16, 29, 87, 100* **Part Two III. Observation on Submission**
Algeria	**Part One. General Report, paragraphs nos. 198, 230** *General direct request* **Part Two IB: Observations on Conventions Nos. 13, 42, 87, 89, 105, 127** *Direct requests on Conventions Nos. 6, 24, 63, 77, 78, 94, 97, 100, 105, 138, 142, 144* **Part Two III. Observation on Submission**
Angola	**Part One. General Report, paragraph no. 226** *General direct request* **Part Two IB: Observations on Conventions Nos. 89, 100, 111** *Direct requests on Conventions Nos. 89, 100, 107, 111* **Part Two III. Observation on Submission**
Antigua and Barbuda	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 29, 81, 111, 138* **Part Two III. Observation on Submission**
Argentina	**Part Two IB: Observations on Conventions Nos. 87, 88, 107, 156** *Direct requests on Conventions Nos. 14, 17, 41, 42, 52, 90, 129, 138, 156* *Direct request on Submission*
Armenia	**Part One. General Report, paragraphs nos. 187, 194, 226** **Part Two IA: General observation** **Part Two III. Observation on Submission**
Australia	**Part Two IB: Observations on Conventions Nos. 42, 87, 98, 111** *Direct requests on Conventions Nos. 81, 87, 111, 150, 156, 160*

Norfolk Island	*Direct requests on Conventions Nos. 3, 17, 42, 160*
Austria	*Direct requests on Conventions Nos. 6, 81, 89, 111, 124, 160* *Direct request on Submission*
Azerbaijan	**Part Two IB: Observations on Conventions Nos. 87, 151** *Direct requests on Conventions Nos. 11, 23, 52, 92, 124, 133, 147* *Direct request on Submission*
Bahamas	**Part Two IB: Observations on Conventions Nos. 42, 81, 144** *Direct requests on Conventions Nos. 81, 97* *Direct request on Submission*
Bahrain	*Direct request on Convention No. 14* *Direct request on Submission*
Bangladesh	**Part Two IB: Observations on Conventions Nos. 11, 87, 98, 107** *Direct requests on Conventions Nos. 81, 87, 96, 107* **Part Two III. Observation on Submission**
Barbados	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 63, 87** *Direct requests on Conventions Nos. 97, 111, 147*
Belarus	*General direct request* **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 87, 105, 124, 150, 160* *Direct request on Submission*
Belgium	**Part Two IB: Observations on Conventions Nos. 87, 111** *Direct requests on Conventions Nos. 111, 139, 162* *Direct request on Submission*
Belize	**Part One. General Report, paragraphs nos. 187, 193, 198, 226** *General direct request* **Part Two IB: Observations on Conventions Nos. 81, 87, 98, 105** *Direct requests on Conventions Nos. 5, 22, 29, 81, 88, 95, 105, 115* **Part Two III. Observation on Submission**
Benin	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 41, 87, 105** *Direct requests on Conventions Nos. 87, 100, 105* **Part Two III. Observation on Submission**
Bolivia	**Part One. General Report, paragraphs nos. 193, 226** **Part Two IA: General observation** *General direct request* **Part Two IB: Observations on Conventions Nos. 81, 87, 88, 89, 95, 102, 105, 106, 111, 121, 128, 129, 130, 131** *Direct requests on Conventions Nos. 81, 95, 100, 105, 111, 117, 122, 124, 131, 156, 160* **Part Two III. Observation on Submission**

Bosnia and Herzegovina	**Part One. General Report, paragraphs nos. 187, 198, 226, 230** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 81, 87, 111** *Direct requests on Conventions Nos. 122, 158* **Part Two III. Observation on Submission**
Botswana	**Part One. General Report, paragraphs nos. 187, 194** **Part Two IA: General observation**
Brazil	**Part Two IB: Observations on Conventions Nos. 29, 81, 92, 111, 115, 118, 119, 148, 155** *Direct requests on Conventions Nos. 42, 81, 89, 115, 119, 148, 160* **Part Two III. Observation on Submission**
Bulgaria	*General direct request* **Part Two IB: Observations on Conventions Nos. 3, 87, 111** *Direct requests on Conventions Nos. 17, 24, 29, 52, 55, 56, 106, 111, 138*
Burkina Faso	**Part One. General Report, paragraph no. 194** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 87, 98, 150** *Direct requests on Conventions Nos. 97, 150, 159* **Part Two III. Observation on Submission**
Burundi	*General direct request* **Part Two IB: Observations on Conventions Nos. 11, 87** *Direct requests on Conventions Nos. 59, 89, 100, 111, 135, 144* **Part Two III. Observation on Submission**
Cambodia	**Part One. General Report, paragraph no. 226** **Part Two IB: Observation on Convention No. 29** *Direct requests on Conventions Nos. 6, 122* **Part Two III. Observation on Submission**
Cameroon	**Part One. General Report, paragraphs nos. 187, 198, 226** *General direct request* **Part Two IB: Observations on Conventions Nos. 9, 29, 78, 87, 94, 98** *Direct requests on Conventions Nos. 29, 97, 100, 106, 111, 122, 132, 143, 158, 162* **Part Two III. Observation on Submission**
Canada	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 87, 111, 160*
Cape Verde	**Part One. General Report, paragraph no. 193** **Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 17, 100, 111* **Part Two III. Observation on Submission**

Central African Republic	**Part One. General Report, paragraphs nos. 187, 198, 226** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 18, 19, 29, 41, 52, 62, 81, 87, 94, 95, 105, 118** *Direct requests on Conventions Nos. 17, 29, 81, 95, 100, 111, 118* **Part Two III. Observation on Submission**
Chad	**Part Two IB: Observation on Convention No. 87** *Direct request on Convention No. 144* **Part Two III. Observation on Submission**
Chile	**Part Two IB: Observations on Conventions Nos. 35, 36, 37, 38, 111, 127, 162** *Direct requests on Conventions Nos. 29, 111, 122, 156, 159, 162* *Direct request on Submission*
China	*Direct requests on Conventions Nos. 22, 122*
Hong Kong Special Administrative Region	*Direct requests on Conventions Nos. 122, 147, 160*
Colombia	**Part Two IB: Observations on Conventions Nos. 12, 17, 22, 87, 95, 98, 105, 106, 169** *Direct requests on Conventions Nos. 4, 22, 160, 169* **Part Two III. Observation on Submission**
Comoros	**Part One. General Report, paragraph no. 226** **Part Two IB: Observations on Conventions Nos. 1, 17, 29, 42, 81, 95** *Direct requests on Conventions Nos. 14, 52, 77, 78, 95, 98, 100, 101* **Part Two III. Observation on Submission**
Congo	**Part One. General Report, paragraphs nos. 187, 198, 226** *General direct request* **Part Two IB: Observations on Conventions Nos. 29, 87, 95, 150** *Direct request on Convention No. 29* **Part Two III. Observation on Submission**
Costa Rica	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 14, 87, 89, 94, 95, 98, 102, 106, 130, 135, 138, 141, 169** *Direct requests on Conventions Nos. 81, 94, 102, 129, 130, 138, 147, 150, 159, 169* **Part Two III. Observation on Submission**
Côte d'Ivoire	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 29, 41, 52, 95, 129, 144** *Direct requests on Conventions Nos. 29, 100, 111, 129, 133* *Direct request on Submission*

Croatia	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 12, 16, 22, 23, 29, 53, 73, 91, 105, 113, 147, 156* *Direct request on Submission*
Cuba	**Part Two IB: Observations on Conventions Nos. 81, 87** *Direct requests on Conventions Nos. 4, 79, 90, 97, 100, 138, 150* *Direct request on Submission*
Cyprus	**Part One. General Report, paragraphs nos. 193, 194** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 87, 102, 105, 114, 151** *Direct requests on Conventions Nos. 23, 29, 122, 147, 150, 160* *Direct request on Submission*
Czech Republic	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 11, 111, 155** *Direct requests on Conventions Nos. 14, 27, 29, 42, 87, 89, 122, 130, 132, 155, 159, 160, 161, 163, 164*
Democratic Republic of the Congo	**Part One. General Report, paragraphs nos. 187, 198** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 29, 88, 94, 98, 119, 121** *Direct requests on Conventions Nos. 26, 29, 62, 81, 95, 100, 117, 118, 150, 158* **Part Two III. Observation on Submission**
Denmark	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 87, 98, 100, 129, 169** *Direct requests on Conventions Nos. 27, 29, 52, 87, 94, 100, 111, 129, 138, 144, 148, 169* *Direct request on Submission*
Faeroe islands	**Part One. General Report, paragraphs nos. 187, 198** **Part Two IA: General observation** *Direct requests on Conventions Nos. 9, 16, 92*
Greenland	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* *Direct requests on Conventions Nos. 5, 6, 14, 106, 122*
Djibouti	*General direct request* **Part Two IB: Observations on Conventions Nos. 24, 37, 38, 56, 71, 87** *Direct requests on Conventions Nos. 19, 55, 63, 115, 120* **Part Two III. Observation on Submission**

Dominica	**Part One. General Report, paragraphs nos. 198, 226** *General direct request* **Part Two IB: Observations on Conventions Nos. 29, 87, 138** *Direct requests on Conventions Nos. 29, 97, 100, 105, 111, 138* **Part Two III. Observation on Submission**
Dominican Republic	**Part Two IB: Observations on Conventions Nos. 81, 87, 95, 100** *Direct requests on Conventions Nos. 89, 95, 100, 159*
Ecuador	**Part Two IB: Observations on Conventions Nos. 81, 87, 115, 121** *Direct requests on Conventions Nos. 115, 122, 159* **Part Two III. Observation on Submission**
Egypt	**Part One. General Report, paragraph no. 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 55, 81, 87, 94, 106, 139** *Direct requests on Conventions Nos. 56, 63, 81, 87, 89, 100, 107, 111, 115, 118, 149, 150, 159*
El Salvador	**Part One. General Report, paragraph no. 193** **Part Two IB: Observation on Convention No. 105** *Direct requests on Conventions Nos. 29, 77, 78, 81, 99, 105, 107, 129, 138, 159, 160* **Part Two III. Observation on Submission**
Equatorial Guinea	**Part One. General Report, paragraphs nos. 187, 194, 198, 230** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 1, 30** *Direct request on Convention No. 138* **Part Two III. Observation on Submission**
Eritrea	**Part Two III. Observation on Submission**
Estonia	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 22, 23, 27, 41, 100, 135* *Direct request on Submission*
Ethiopia	**Part One. General Report, paragraph no. 193** *General direct request* **Part Two IB: Observations on Conventions Nos. 87, 98** *Direct requests on Conventions Nos. 98, 158, 159*
Fiji	**Part One. General Report, paragraphs nos. 187, 198, 230** *General direct request* *Direct requests on Conventions Nos. 8, 29, 105* **Part Two III. Observation on Submission**
Finland	**Part Two IB: Observations on Conventions Nos. 87, 100, 111, 115, 156** *Direct requests on Conventions Nos. 100, 111, 115, 129, 140, 142, 156, 159, 160, 164*

France	**Part Two IB: Observations on Conventions Nos. 29, 42, 95, 115, 137, 138, 149, 156**
	Direct requests on Conventions Nos. 27, 52, 87, 90, 95, 96, 100, 105, 111, 115, 127, 148, 149, 156
	Direct request on Submission
French Guiana	**Part One. General Report, paragraph no. 193**
	Part Two IIB: Observations on Conventions Nos. 42, 115, 129
	Direct requests on Conventions Nos. 27, 89, 100, 115, 142, 149
French Polynesia	*Direct requests on Conventions Nos. 77, 78, 100*
French Southern and Antarctic Territories	**Part Two IIB: Observation on Convention No. 87**
Guadeloupe	**Part One. General Report, paragraph no. 193**
	Part Two IIB: Observations on Conventions Nos. 42, 115, 149
	Direct requests on Conventions Nos. 27, 89, 100, 115, 136, 149
Martinique	**Part One. General Report, paragraph no. 193**
	Part Two IIB: Observations on Conventions Nos. 42, 115, 129, 149
	Direct requests on Conventions Nos. 27, 89, 100, 115, 136, 149
New Caledonia	**Part Two IIB: Observations on Conventions Nos. 63, 127**
	Direct requests on Conventions Nos. 77, 78, 89, 100, 129, 144
Réunion	**Part One. General Report, paragraph no. 198**
	Part Two IIB: Observations on Conventions Nos. 42, 115, 129
	Direct requests on Conventions Nos. 27, 100, 115, 149
St. Pierre and Miquelon	**Part One. General Report, paragraph no. 193**
	Part Two IIB: Observations on Conventions Nos. 42, 63, 115
	Direct requests on Conventions Nos. 89, 100, 115
Gabon	**Part One. General Report, paragraphs nos. 187, 198**
	General direct request
	Part Two IB: Observations on Conventions Nos. 98, 144
	Direct requests on Conventions Nos. 11, 29, 52, 81, 87, 95, 100, 105, 111, 124, 154, 158
	Part Two III. Observation on Submission
Gambia	**Part One. General Report, paragraph no. 230**
	Direct request on Submission
Georgia	**Part One. General Report, paragraphs nos. 187, 194, 230**
	Part Two IA: General observation
	General direct request
	Direct request on Convention No. 98
	Direct request on Submission
Germany	*General direct request*
	Part Two IB: Observations on Conventions Nos. 87, 100
	Direct requests on Conventions Nos. 81, 97, 130, 148, 150, 161, 167
	Direct request on Submission

Ghana	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 30, 81, 87, 89, 100, 111, 115** *Direct requests on Conventions Nos. 81, 88, 111, 149* *Direct request on Submission*
Greece	*General direct request* **Part Two IB: Observations on Conventions Nos. 42, 71, 87, 111, 115** *Direct requests on Conventions Nos. 17, 69, 78, 111, 115, 144, 150, 156, 160* *Direct request on Submission*
Grenada	**Part One. General Report, paragraphs nos. 193, 194, 230** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 16, 58** *Direct requests on Conventions Nos. 5, 10, 26, 81, 87, 95, 97, 99, 105, 144* **Part Two III. Observation on Submission**
Guatemala	**Part One. General Report, paragraph no. 198** **Part Two IB: Observations on Conventions Nos. 29, 87, 127** *Direct requests on Conventions Nos. 29, 81, 94, 100, 103, 114, 122, 129, 138, 159, 160* **Part Two III. Observation on Submission**
Guinea	**Part One. General Report, paragraphs nos. 193, 230** **Part Two IB: Observations on Conventions Nos. 5, 81, 87, 94, 98, 105, 111, 121** *Direct requests on Conventions Nos. 90, 95, 100, 111, 140, 142, 143, 149, 150, 156* *Direct request on Submission*
Guinea-Bissau	**Part One. General Report, paragraphs nos. 193, 226** *Direct requests on Conventions Nos. 26, 88, 100, 105, 107, 111* **Part Two III. Observation on Submission**
Guyana	*General direct request* **Part Two IB: Observations on Conventions Nos. 42, 87, 111, 129, 149** *Direct requests on Conventions Nos. 81, 97, 111, 140, 144, 150* *Direct request on Submission*
Haiti	**Part One. General Report, paragraphs nos. 187, 198, 226** *General direct request* **Part Two IB: Observations on Conventions Nos. 24, 25, 29, 42, 87** *Direct requests on Conventions Nos. 12, 14, 17, 29, 87, 100, 106, 111* **Part Two III. Observation on Submission**

Honduras	**Part One. General Report, paragraph no. 226** *General direct request* **Part Two IB: Observation on Convention No. 87** **Part Two III. Observation on Submission**
Hungary	**Part Two IB: Observation on Convention No. 127** *Direct requests on Conventions Nos. 24, 87, 105, 122, 140, 165*
Iceland	**Part Two IB: Observation on Convention No. 100** *Direct request on Convention No. 100*
India	*General direct request* **Part Two IB: Observations on Conventions Nos. 11, 29, 81, 90, 107** *Direct requests on Conventions Nos. 111, 144, 147, 160* **Part Two III. Observation on Submission**
Indonesia	**Part Two IB: Observation on Convention No. 29** *Direct request on Submission*
Islamic Republic of Iran	*General direct request* **Part Two IB: Observation on Convention No. 111** *Direct request on Convention No. 29* *Direct request on Submission*
Iraq	**Part One. General Report, paragraph no. 193** *General direct request* **Part Two IB: Observations on Conventions Nos. 8, 17, 29, 95, 98, 107, 132** *Direct requests on Conventions Nos. 14, 22, 23, 42, 89, 94, 106, 138, 140, 144, 147, 149, 150, 152, 153* *Direct request on Submission*
Ireland	*General direct request* **Part Two IB: Observation on Convention No. 138** *Direct requests on Conventions Nos. 29, 81, 122, 132, 138, 139, 159*
Israel	**Part One. General Report, paragraph no. 193** *Direct requests on Conventions Nos. 79, 92, 111, 147, 150* *Direct request on Submission*
Italy	**Part Two IB: Observations on Conventions Nos. 81, 118, 122, 127** *Direct requests on Conventions Nos. 4, 81, 100, 118, 138, 142* *Direct request on Submission*
Jamaica	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 8, 29, 87, 98** *Direct requests on Conventions Nos. 81, 94, 97, 100, 111, 122, 149, 150*

Japan	**Part Two IB: Observations on Conventions Nos. 29, 87, 98, 100, 102, 156** *Direct requests on Conventions Nos. 156, 159*
Jordan	*Direct request on Submission*
Kazakhstan	**Part One. General Report, paragraph no. 226** **Part Two IB: Observation on Convention No. 148** **Part Two III. Observation on Submission**
Kenya	**Part Two IB: Observations on Conventions Nos. 138, 143** *Direct requests on Conventions Nos. 63, 97, 140, 143, 144* **Part Two III. Observation on Submission**
Republic of Korea	*Direct requests on Conventions Nos. 100, 150, 160*
Kuwait	**Part Two IB: Observations on Conventions Nos. 87, 89** *Direct request on Convention No. 111* *Direct request on Submission*
Kyrgyzstan	**Part One. General Report, paragraphs nos. 187, 194, 198, 226** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 87, 95** *Direct requests on Conventions Nos. 14, 23, 29, 52, 77, 78, 79, 87, 95, 98, 100, 108, 122, 124, 147, 148, 149, 159, 160* **Part Two III. Observation on Submission**
Lao People's Democratic Republic	**Part One. General Report, paragraphs nos. 187, 198, 230** **Part Two IA: General observation** *Direct request on Convention No. 29* **Part Two III. Observation on Submission**
Latvia	*Direct requests on Conventions Nos. 3, 6, 87, 105, 108, 122, 149, 160* **Part Two III. Observation on Submission**
Lebanon	*General direct request* *Direct requests on Conventions Nos. 17, 58, 77, 78, 89, 105, 111, 147* *Direct request on Submission*
Lesotho	**Part One. General Report, paragraph no. 193** *Direct requests on Conventions Nos. 29, 87, 98, 111, 135* **Part Two III. Observation on Submission**
Liberia	**Part One. General Report, paragraphs nos. 187, 194, 198, 230** **Part Two IA: General observation** *General direct request* **Part Two IB: Observations on Conventions Nos. 22, 29, 55, 87, 112, 114, 133** *Direct requests on Conventions Nos. 29, 147* *Direct request on Submission*

Libyan Arab Jamahiriya	**Part One. General Report, paragraphs nos. 193, 198, 230** *General direct request* **Part Two IB: Observations on Conventions Nos. 81, 88, 95, 98, 111, 131** *Direct requests on Conventions Nos. 1, 29, 95, 100, 138* *Direct request on Submission*
Lithuania	**Part Two IB: Observations on Conventions Nos. 87, 88, 100** *Direct requests on Conventions Nos. 4, 79, 87, 90, 100, 131, 142, 159*
Luxembourg	*General direct request* *Direct requests on Conventions Nos. 81, 87, 108*
Madagascar	**Part One. General Report, paragraphs nos. 193, 226** **Part Two IB: Observations on Conventions Nos. 87, 100, 129** *Direct requests on Conventions Nos. 41, 98, 100, 111, 124, 129* **Part Two III. Observation on Submission**
Malawi	**Part Two IB: Observations on Conventions Nos. 81, 129** *Direct requests on Conventions Nos. 89, 97, 111, 144, 158, 159* *Direct request on Submission*
Malaysia	**Part Two IB: Observations on Conventions Nos. 81, 98** *Direct requests on Conventions Nos. 29, 81* *Direct request on Submission*
Peninsular Malaysia	**Part Two IB: Observations on Conventions Nos. 17, 19** *Direct request on Convention No. 12*
Sabah Sarawak	**Part Two IB: Observation on Convention No. 97** **Part Two IB: Observation on Convention No. 19** *Direct requests on Conventions Nos. 12, 14*
Mali	**Part One. General Report, paragraphs nos. 193, 226** **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 81, 87, 100, 141, 151, 159* **Part Two III. Observation on Submission**
Malta	**Part One. General Report, paragraph no. 193** **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 1, 73, 81, 88, 96, 111, 117, 124, 129, 138* *Direct request on Submission*
Mauritania	**Part One. General Report, paragraph no. 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 22, 29, 81, 87, 94, 95, 102, 118** *Direct requests on Conventions Nos. 3, 22, 29, 81, 94, 102, 114, 118, 122* **Part Two III. Observation on Submission**
Mauritius	*Direct requests on Conventions Nos. 26, 95, 138*

Mexico	**Part Two IB: Observations on Conventions Nos. 22, 87, 102, 150, 155** *Direct requests on Conventions Nos. 22, 102, 118, 155, 160* *Direct request on Submission*
Republic of Moldova	**Part Two IB: Observation on Convention No. 95** *Direct requests on Conventions Nos. 87, 122, 127, 129, 158* *Direct request on Submission*
Mongolia	**Part One. General Report, paragraphs nos. 187, 194, 198** **Part Two IA: General observation** *General direct request* *Direct requests on Conventions Nos. 87, 100, 103, 111, 122* **Part Two III. Observation on Submission**
Morocco	**Part Two IB: Observation on Convention No. 105** *Direct requests on Conventions Nos. 99, 158* **Part Two III. Observation on Submission**
Mozambique	**Part Two IB: Observations on Conventions Nos. 81, 87** *Direct requests on Conventions Nos. 81, 144* *Direct request on Submission*
Myanmar	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 26, 29, 52, 87** *Direct request on Convention No. 22* *Direct request on Submission*
Namibia	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 150, 158*
Nepal	*Direct request on Convention No. 98* *Direct request on Submission*
Netherlands	**Part Two IB: Observations on Conventions Nos. 29, 98** *Direct requests on Conventions Nos. 29, 90, 115, 121, 138, 150, 156, 160* *Direct request on Submission*
Aruba	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* **Part Two IIB: Observations on Conventions Nos. 87, 101, 122, 137, 138, 145** *Direct requests on Conventions Nos. 14, 25, 29, 94, 95, 121, 131, 135, 138, 140, 142, 146, 147*
Netherlands Antilles	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* *Direct requests on Conventions Nos. 81, 87, 89, 94, 106, 122*
New Zealand	**Part Two IB: Observation on Convention No. 11** *Direct requests on Conventions Nos. 14, 22, 52, 101, 144* *Direct request on Submission*

Nicaragua	**Part Two IB: Observations on Conventions Nos. 77, 78, 87** *Direct requests on Conventions Nos. 4, 22, 105, 127, 140*
Niger	**Part One. General Report, paragraph no. 193** *General direct request* **Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 29, 95, 98, 100, 111, 117, 131, 138, 142, 156, 158* *Direct request on Submission*
Nigeria	**Part One. General Report, paragraphs nos. 187, 198, 230** *General direct request* **Part Two IB: Observations on Conventions Nos. 87, 97, 100, 105** *Direct requests on Conventions Nos. 26, 29, 58, 81, 88, 95, 100, 133, 144* **Part Two III. Observation on Submission**
Norway	**Part Two IB: Observations on Conventions Nos. 87, 100, 111, 129, 143, 156, 170** *Direct requests on Conventions Nos. 56, 90, 97, 100, 111, 115, 138, 143, 160*
Oman	*Direct request on Submission*
Pakistan	**Part Two IB: Observations on Conventions Nos. 11, 22, 87, 105** *Direct requests on Conventions Nos. 87, 90, 105, 107* **Part Two III. Observation on Submission**
Panama	**Part Two IB: Observations on Conventions Nos. 17, 22, 30, 81, 87, 89** *Direct requests on Conventions Nos. 22, 23, 74, 81, 87*
Papua New Guinea	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* *Direct requests on Conventions Nos. 8, 27, 29, 122* **Part Two III. Observation on Submission**
Paraguay	*General direct request* **Part Two IB: Observations on Conventions Nos. 59, 60, 87, 111, 120, 169** *Direct requests on Conventions Nos. 1, 30, 52, 60, 87, 89, 100, 159, 169* *Direct request on Submission*
Peru	**Part Two IB: Observations on Conventions Nos. 44, 55, 71, 87, 98, 102, 169** *Direct requests on Conventions Nos. 67, 79, 81, 87, 90, 98, 102, 159* *Direct request on Submission*
Philippines	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 17, 19, 23, 90, 100, 118, 149, 157* *Direct request on Submission*

Poland	**Part Two IB: Observations on Conventions Nos. 87, 149** *Direct requests on Conventions Nos. 8, 22, 23, 79, 90, 98, 108, 111, 115, 129, 133, 138, 140, 160*
Portugal	**Part Two IB: Observations on Conventions Nos. 6, 22, 87, 95, 122, 131** *Direct requests on Conventions Nos. 23, 95, 131, 144, 150, 158, 160*
Qatar	**Part Two IB: Observations on Conventions Nos. 81, 111** *Direct requests on Conventions Nos. 81, 111*
Romania	**Part Two IB: Observations on Conventions Nos. 87, 138** *Direct requests on Conventions Nos. 29, 87, 100, 137*
Russian Federation	**Part Two IB: Observations on Conventions Nos. 87, 108, 138** *Direct requests on Conventions Nos. 29, 79, 108, 111, 147, 159, 160* *Direct request on Submission*
Rwanda	**Part Two IB: Observations on Conventions Nos. 11, 87, 94, 138** *Direct request on Convention No. 89* *Direct request on Submission*
Saint Kitts and Nevis	*Direct request on Submission*
Saint Lucia	**Part One. General Report, paragraphs nos. 187, 193, 198, 226, 230** *General direct request* **Part Two IB: Observations on Conventions Nos. 17, 97, 98, 100** *Direct requests on Conventions Nos. 5, 19, 29, 94, 95, 111* **Part Two III. Observation on Submission**
Saint Vincent and the Grenadines	**Part One. General Report, paragraph no. 230** *Direct requests on Conventions Nos. 5, 7, 10, 16, 19, 81, 98* *Direct request on Submission*
San Marino	**Part One. General Report, paragraph no. 193** *Direct requests on Conventions Nos. 111, 140, 143, 156, 160*
Sao Tome and Principe	**Part One. General Report, paragraphs nos. 187, 198, 226, 230** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 18, 87, 88** *Direct requests on Conventions Nos. 17, 81, 98, 100, 111, 144, 159* **Part Two III. Observation on Submission**
Saudi Arabia	**Part Two IB: Observations on Conventions Nos. 29, 81, 90, 111** *Direct requests on Conventions Nos. 100, 111* *Direct request on Submission*
Senegal	**Part One. General Report, paragraph no. 226** *General direct request* **Part Two IB: Observations on Conventions Nos. 6, 87, 121** *Direct requests on Conventions Nos. 81, 100, 111* **Part Two III. Observation on Submission**

Seychelles	**Part One. General Report, paragraph no. 226** **Part Two IB: Observation on Convention No. 87** *Direct request on Convention No. 105* **Part Two III. Observation on Submission**
Sierra Leone	**Part One. General Report, paragraphs nos. 187, 198, 226** **Part Two IA: General observation** **Part Two IB: Observations on Conventions Nos. 8, 17, 29, 59, 88, 98, 101, 105, 111, 119, 125, 144** *Direct requests on Conventions Nos. 26, 29, 95, 99, 100, 111, 126* **Part Two III. Observation on Submission**
Singapore	*Direct request on Submission*
Slovakia	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 11, 87** *Direct requests on Conventions Nos. 19, 27, 42, 90, 95, 111, 115, 122, 130, 138, 144, 148, 155, 159, 160* *Direct request on Submission*
Slovenia	**Part One. General Report, paragraph no. 193** *Direct requests on Conventions Nos. 16, 27, 53, 69, 73, 74, 89, 105, 111, 113, 122, 143, 156, 158, 159* *Direct request on Submission*
Solomon Islands	**Part One. General Report, paragraphs nos. 187, 198, 226, 230** **Part Two IA: General observation** **Part Two IB: Observation on Convention No. 8** *Direct requests on Conventions Nos. 14, 29, 81, 95* **Part Two III. Observation on Submission**
Somalia	**Part One. General Report, paragraph no. 226** **Part Two IA: General observation** **Part Two III. Observation on Submission**
South Africa	**Part One. General Report, paragraph no. 193** *Direct requests on Conventions Nos. 42, 63, 87, 89*
Spain	**Part Two IB: Observations on Conventions Nos. 77, 78, 81, 87, 97, 102, 111, 129, 131, 144, 155** *Direct requests on Conventions Nos. 4, 14, 24, 81, 97, 102, 106, 129, 138, 151, 159, 160, 166* **Part Two III. Observation on Submission**
Sri Lanka	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 11, 29, 87, 98, 100, 115** *Direct requests on Conventions Nos. 29, 87, 90, 96, 100, 115*

Sudan	**Part Two IB: Observations on Conventions Nos. 29, 81, 105, 111** *Direct requests on Conventions Nos. 81, 111* **Part Two III. Observation on Submission**
Suriname	**Part Two IB: Observations on Conventions Nos. 17, 42, 118, 144** *Direct request on Convention No. 41* **Part Two III. Observation on Submission**
Swaziland	**Part One. General Report, paragraph no. 230** **Part Two IB: Observations on Conventions Nos. 11, 29, 81, 87, 98** *Direct requests on Conventions Nos. 11, 81, 87, 89, 90, 100, 111, 160* **Part Two III. Observation on Submission**
Sweden	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 100, 111, 121, 129, 155, 161** *Direct requests on Conventions Nos. 100, 111, 138, 140, 147, 150, 155, 156, 158, 159, 160, 161, 164* *Direct request on Submission*
Switzerland	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 111, 115, 132, 160*
Syrian Arab Republic	**Part One. General Report, paragraphs nos. 193, 226** **Part Two IB: Observations on Conventions Nos. 1, 11, 19, 30, 87, 96, 118** *Direct requests on Conventions Nos. 63, 81, 87, 100, 107, 111, 129, 136* **Part Two III. Observation on Submission**
Tajikistan	**Part One. General Report, paragraphs nos. 187, 193, 198** **Part Two IA: General observation** *General direct request* **Part Two IB: Observations on Conventions Nos. 87, 138** *Direct requests on Conventions Nos. 11, 23, 29, 52, 77, 78, 100, 103, 115, 122, 124, 138, 159, 160* *Direct request on Submission*
United Republic of Tanzania	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* **Part Two IB: Observations on Conventions Nos. 17, 29, 98, 105** *Direct requests on Conventions Nos. 17, 29, 59, 63, 94, 95, 98, 105, 131, 137, 140, 142, 144, 148, 149, 152* **Part Two III. Observation on Submission**
Tanganyika	**Part One. General Report, paragraph no. 187** *General direct request* *Direct request on Convention No. 81*
Zanzibar	**Part One. General Report, paragraph no. 187** **Part Two IA: General observation** *Direct request on Convention No. 58*

Thailand	**Part Two IB: Observations on Conventions Nos. 29, 105** *Direct requests on Conventions Nos. 105, 122* **Part Two III. Observation on Submission**
The former Yugoslav Republic of Macedonia	**Part One. General Report, paragraphs nos. 187, 198, 230** **Part Two IA: General observation** **Part Two IB: Observation on Convention No. 87** *Direct request on Convention No. 87* **Part Two III. Observation on Submission**
Togo	**Part Two IB: Observation on Convention No. 87** *Direct requests on Conventions Nos. 138, 143* *Direct request on Submission*
Trinidad and Tobago	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 87, 98, 105** *Direct requests on Conventions Nos. 29, 97, 100, 144* *Direct request on Submission*
Tunisia	**Part Two IB: Observations on Conventions Nos. 77, 87, 105, 150** *Direct requests on Conventions Nos. 18, 77, 81, 87, 111, 138, 150, 159*
Turkey	**Part Two IB: Observations on Conventions Nos. 14, 26, 81, 87, 95, 98, 105, 111, 158** *Direct requests on Conventions Nos. 77, 87, 105, 111, 115, 138*
Turkmenistan	**Part One. General Report, paragraphs nos. 187, 194, 230** **Part Two IA: General observation** **Part Two III. Observation on Submission**
Uganda	*General direct request* **Part Two IB: Observations on Conventions Nos. 81, 105** *Direct requests on Conventions Nos. 81, 94, 124, 143, 154, 158, 159, 162* **Part Two III. Observation on Submission**
Ukraine	**Part Two IB: Observations on Conventions Nos. 87, 95** *Direct requests on Conventions Nos. 23, 92, 124, 133, 138, 147, 158, 160* *Direct request on Submission*
United Arab Emirates	**Part Two IB: Observation on Convention No. 138** *Direct requests on Conventions Nos. 100, 105* *Direct request on Submission*
United Kingdom	**Part Two IB: Observations on Conventions Nos. 17, 42, 44, 81, 87** *Direct requests on Conventions Nos. 42, 44, 81, 87, 92, 126, 133, 144*

Anguilla	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* **Part Two IIB: Observation on Convention No. 17** *Direct requests on Conventions Nos. 22, 23, 94, 140*
Bermuda	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* **Part Two IIB: Observation on Convention No. 82** *Direct requests on Conventions Nos. 94, 115*
British Virgin Islands	**Part Two IIB: Observation on Convention No. 17** *Direct requests on Conventions Nos. 17, 97*
Falkland Islands (Malvinas)	**Part One. General Report, paragraph no. 187** *General direct request*
Gibraltar	**Part One. General Report, paragraphs nos. 187, 193, 198** *General direct request* **Part Two IIB: Observation on Convention No. 42** *Direct requests on Conventions Nos. 22, 29, 100, 160*
Guernsey	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* *Direct requests on Conventions Nos. 24, 25, 56, 63, 115*
Isle of Man	**Part One. General Report, paragraph no. 187** *General direct request* **Part Two IIB: Observation on Convention No. 17** *Direct requests on Conventions Nos. 122, 151, 160*
Jersey	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* *Direct requests on Conventions Nos. 17, 22, 115, 140, 160*
Montserrat	**Part One. General Report, paragraph no. 187** *General direct request* *Direct request on Convention No. 95*
St. Helena	**Part One. General Report, paragraph no. 187** *General direct request* *Direct request on Convention No. 17*
United States	*Direct request on Convention No. 160*
Uruguay	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 94, 98, 111, 121, 129, 131, 150, 151** *Direct requests on Conventions Nos. 63, 79, 90, 94, 103, 111, 121, 129, 150, 156, 159* **Part Two III. Observation on Submission**
Uzbekistan	**Part One. General Report, paragraphs nos. 187, 194, 226, 230** **Part Two IA. General observation** **Part Two III. Observation on Submission**

Venezuela	**Part Two IB: Observations on Conventions Nos. 41, 87, 88, 102, 121, 128, 130, 155** *Direct requests on Conventions Nos. 81, 97* **Part Two III. Observation on Submission**
Viet Nam	**Part One. General Report, paragraphs nos. 187, 198** *General direct request* *Direct requests on Conventions Nos. 6, 14, 81, 124*
Yemen	**Part Two IB: Observation on Convention No. 98** *Direct requests on Conventions Nos. 16, 81, 105, 111, 158, 159* **Part Two III. Observation on Submission**
Zambia	**Part One. General Report, paragraph no. 193** **Part Two IB: Observations on Conventions Nos. 87, 97** *Direct requests on Conventions Nos. 29, 87, 89, 97, 122, 124, 138, 150* **Part Two III. Observation on Submission**
Zimbabwe	*Direct requests on Conventions Nos. 81, 98, 150* *Direct request on Submission*

PART ONE

General Report

GENERAL REPORT

I. Introduction

1. The Committee of Experts on the Application of Conventions and Recommendations, appointed by the Governing Body of the International Labour Office to examine the information and reports submitted under articles 19, 22 and 35 of the Constitution by States Members of the International Labour Organization on the action taken with regard to Conventions and Recommendations, held its 71st Session in Geneva from 23 November to 8 December 2000. The Committee has the honour to present its report to the Governing Body.

2. The composition of the Committee is as follows:

Mr. Anwar Ahmad Rashed AL-FUZAIE (Kuwait).

Professor of Private Law of the University of Kuwait; attorney; member of the International Court of Arbitration of the International Chamber of Commerce (ICC); member of the Administrative Board of the Centre of Arbitration of the Chamber of Commerce and Industry of Kuwait; former Director of Legal Affairs of the Municipality of Kuwait; former Adviser to the Embassy of Kuwait (Paris).

Ms. Janice R. BELLACE (United States).

Samuel Blank Professor and Professor of Legal Studies and Management of the Wharton School, University of Pennsylvania; President, Singapore Management University; Senior Editor, Comparative Labor Law and Policy Journal; member of the Executive Board of the International Industrial Relations Association; member of the Executive Board of the US branch of the International Society of Labor Law and Social Security; member of the Public Review Board of the United Automobile, Aerospace and Agricultural Implements Workers' Union; former secretary of the Section on Labor Law, American Bar Association.

Mr. Prafullachandra Natvarlal BHAGWATI (India).

Former Chief Justice of India; former Chief Justice of the High Court of Gujarat; former Chairman, Legal Aid Committee and Judicial Reforms Committee, Government of Gujarat; former Chairman, Committee on Juridicare, Government of India; former Chairman of the Committee appointed by the Government of India for implementing legal aid schemes in the country; member of the International Committee on Human Rights of the International Law Association; member of the Editorial Committee of Reports of the Commonwealth; Ombudsman for the national newspaper *Times of India*; Chairman of the Advisory Board of the Centre for Independence of Judges and Lawyers, Geneva; Vice-President of "El Taller"; Chairman of the Standing Independent Group for scrutinizing and monitoring

mega power projects in India; Vice-Chairman of the United Nations Human Rights Committee; member of the International Panel of Eminent Persons for investigating causes of genocide in Rwanda by the OAU; Regional Adviser to the High Commissioner for Human Rights for the Asia Pacific Region.

Ms. Laura COX, QC (United Kingdom).

LL.B, LL.M of the University of London; Barrister-at-Law, specializing in employment law, discrimination and human rights; Recorder and part-time Judge of the Employment Appeal Tribunal; Head of Cloisters Chambers, Temple, London; Chairperson of the Bar Council Equal Opportunities Committee; Bencher of the Inner Temple; one of the founding Lawyers of Liberty (formerly the National Council for Civil Liberties); member of the Council of the Independent Human Rights Organisation JUSTICE; member of the Industrial Law Society; Vice-President of the Institute of Employment Rights; member of the Specialist Bar Associations for Employment Law, Industrial Injuries, Professional Negligence and Public and Administrative Law; member of the Advisory Council, Human Rights Act Research Unit, Kings College, London.

The Right Honourable Sir William DOUGLAS, PC, KCMG (Barbados).

Former Ambassador; former Chief Justice of Barbados; former President of the ILO Administrative Tribunal; former Judge of the Administrative Tribunal of the Inter-American Development Bank; former Chairman, Commonwealth Caribbean Council of Legal Education; former Chairman, Inter-American Juridical Committee; former Judge of the High Court of Jamaica.

Ms. Blanca Ruth ESPONDA ESPINOSA (Mexico).

Doctor of Law; Professor of International Public Law at the Law Faculty of the National Autonomous University of Mexico; former President of the Senate of the Republic (1989) and of the Foreign Relations Committee; former President of the Population and Development Committee of the Chamber of Deputies and member of the Labour and Social Security Committee; former President of the Inter-American Parliamentary Group on Population and Development and former Vice-President of the Global Forum of Spiritual and Parliamentary Leaders; member of the National Federation of Lawyers and of the Lawyers' Forum of Mexico; recipient of the award for Juridical Merit "the Lawyer of the Year (1993)"; former Director-General of the National Institute for Labour Studies; former Commissioner of the National Migration Institute and former editor of the Mexican Labour Review.

Ms. Robyn A. LAYTON, QC (Australia).

LL.M, Barrister-at-Law; Director, National Rail Corporation; Chairperson of the Human Rights Committee of the Law Society of South Australia; former Commissioner on Health Insurance Commission; former Chairperson of the Australian Health Ethics Committee of the National Health and Medical Research Council; former Honorary Solicitor for the South Australian Council for Civil Liberties; former Solicitor for the Central Aboriginal Land Council; former Chairman of the South Australian Sex Discrimination Board; former Judge and Deputy President of the South Australian Industrial Court and Commission; former Deputy President of the Federal Administrative Appeals Tribunal.

Ms. Ewa LETOWSKA (Poland).

Professor of Civil Law (Institute of Legal Studies of the Polish Academy of Sciences); former parliamentary ombudsman; Justice, Highest Administrative Court; member of the Helsinki Committee; member of the International Commission of Jurists; member of the Polish Academy of Arts and Sciences; member of the Academy of Comparative Law, Paris.

Mr. Sergey Petrovitch MAVRIN (Russian Federation).

Professor of Labour Law (Law Faculty of the St. Petersburg State University); Doctor of Law; Deputy Dean for International Affairs; Chief of the Labour Law Department; former Director of the Interregional Association of Law Schools; Expert of the Labour Committee of the State Duma.

Baron Bernd von MAYDELL (Germany).

Professor of Civil Law, Labour Law and Social Security Law; Director of the Max Planck Institute for Foreign and International Social Law (Munich); Vice-President of the International Society of Labour Law and Social Security and President of the German Section of the Society.

Mr. Cassio MESQUITA BARROS (Brazil).

Barrister-at-Law specializing in labour relations (São Paulo); Titular Professor of Labour Law at the Law School of the public University of São Paulo and the Law School of the private Pontifical Catholic University of São Paulo; Founder and President of the Centre for the Study of International Labour Standards of the University of São Paulo; Professor *honoris causa* of the ICA University of Peru; Academic Adviser, San Martin de Porres University (Lima); honorary member of the Association of Labour Lawyers (São Paulo); Honorary President of the "Asociación Iberoamericana de Derecho del Trabajo y Seguridad Social" (Buenos Aires, Argentina); Honorary President of the "Academia Nacional do Direito do Trabalho" (Rio de Janeiro); member of the International Academy of Law and Economy (São Paulo); member of the Standing Committee on Social Rights, the advisory body to the Ministry of Labour; Titular member of the "Academia Iberoamericana de Derecho del Trabajo y de la Seguridad Social" (based in Madrid).

Mr. Benjamin Obi NWABUEZE (Nigeria).

LL D (London); Hon. LL D (University of Nigeria); Senior Advocate of Nigeria; Laureate of the Nigerian National Order of Merit; former Professor of Law at the University of Nigeria; former Professor and Dean of the Faculty of Law at the University of Zambia; former member of the Governing Council, Nigerian Institute of International Affairs; Fellow of the Nigerian Institute of Advanced Legal Studies; former member, Council of Legal Education; former Minister of Education for Nigeria; former Constitutional Adviser to the Government of Kenya (1992), Ethiopia (1992) and Zambia (1993).

Mr. Edilbert RAZAFINDRALAMBO (Madagascar).

Honorary First President of the Supreme Court of Madagascar; former President of the High Court of Justice; former Professor of Law at the University of Madagascar and at the Malagasy Institute for Judiciary Studies; former Arbitrator

of the ICSID and of the International Civil Aviation Organization; former member of the International Council for Commercial Arbitration; former member of the International Court of Arbitration of the International Chamber of Commerce; Arbitrator at the Joint Court of Justice and Arbitration, ECOWAS; former Judge of the Administrative Tribunal of the ILO; former Alternate Chairman of the Staff Committee of Appeals, African Development Bank; former Vice-Chairman of the United Nations International Law Commission.

Mr. Miguel RODRIGUEZ PIÑERO Y BRAVO FERRER (Spain),

Doctor of Law; President of the Second Section of the Council of State (Legal, Labour and Social Matters); Professor of Labour Law; Doctor *honoris causa* of the University of Ferrara (Italy); President Emeritus of the Constitutional Court; Vice-President of the Spanish Association of Labour Law and Social Security; member of the European Academy of Labour Law, the Ibero-American Academy of Labour Law and the Andalusian Academy of Social Sciences and the Environment; Director of the review *Relaciones laborales*; President of the SIGLO XXI Club; former President of the National Advisory Commission on Collective Agreements and President of the Andalucian Industrial Relations Council; former Dean of the Faculty of Law of the University of Seville; former Director of the University College of La Rábida.

Mr. Amadou SÔ (Senegal),

Honorary President of the Council of State; Judge of the Constitutional Court.

Mr. Boon Chiang TAN (Singapore),

BB M(L), PP A, LL B (London), Dip. Arts; Barrister-at-Law and Solicitor, Singapore; former President of the Industrial Arbitration Court of Singapore; former member of the Court and Council of the University of Singapore; former Vice-President (Asia) of the International Society of Labour Law and Social Security.

Mr. Jean-Maurice VERDIER (France),

Professor Emeritus at the University of Paris X; Honorary President of the University of Paris X; Honorary Dean of the Faculty of Law and Economics; former Director of the Institute for Research on Enterprises and Industrial Relations of the University of Paris X (associate of the National Centre for Scientific Research); former Director of the Institute of Labour Social Sciences, University of Paris I; Vice-President of *Libre Justice*, the French section of the International Commission of Jurists; former Professor at the Faculties of Law and Economics at Tunis (1956-61) and Algiers (1965-68); former member of the Study Group on Corporate Reform (1974-1975); former President and Honorary President of the International Society of Labour Law and Social Security; former President and Honorary President of the French Association of Labour Law and Social Security; member of the Research Group "Fourth World-University".

Mr. Budislav VUKAS (Croatia),

Professor of Public International Law at the University of Zagreb, Faculty of Law; member of the International Tribunal for the Law of the Sea; member of the Institute of International Law; member of the Permanent Court of Arbitration; member of the OSCE Court of Conciliation and Arbitration; member of the

International Council of Environmental Law; member of the Commission on Environmental Law of the International Union for Conservation of Nature and Natural Resources.

Mr. Toshio YAMAGUCHI (Japan),

Honorary Professor of Law at the University of Tokyo, Professor of Law at Kanagawa University; President of the National Port Development Council; former Chairman of the Central Labour Relations Commission of Japan; former member of the Executive Committee of the International Society of Labour Law and Social Security; full member of the International Academy of Comparative Law.

3. The Committee noted with regret that Mr. Yamaguchi was not able to participate in its work.

4. The Committee elected Sir William DOUGLAS as its Chairperson and it elected Mr. E. RAZAFINDRALAMBO as Reporter of the Committee.

Working methods

5. In pursuance of its terms of reference, as revised by the Governing Body at its 103rd Session (Geneva, 1947), the Committee was called upon to examine:

(i) the annual reports under article 22 of the Constitution on the measures taken by Members to give effect to the provisions of the Conventions to which they are parties, and the information furnished by Members concerning the results of inspections;

(ii) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;

(iii) information and reports on the measures taken by Members in accordance with article 35 of the Constitution.

6. The Committee, after an examination and evaluation of the above reports and information, drew up its present report, consisting of the following three parts: Part One is the General Report in which the Committee reviews general questions concerning international labour standards and related instruments and their implementation. Part Two contains observations concerning particular countries on the application of ratified Conventions (see section I and paragraphs 182 to 214 below), on the application of Conventions in non-metropolitan territories (see section II and paragraphs 182 to 214 below), and on the obligation to submit instruments to the competent authorities (see section III and paragraphs 215 to 227 below). Part Three, which is published in a separate volume (Report III (Part 1B)), consists of a General Survey on the Night Work (Women) Convention, 1919 (No. 4), the Night Work (Women) Convention (Revised), 1934 (No. 41), the Night Work (Women) Convention (Revised), 1948 (No. 89), and on the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948, on which governments were requested to submit reports under article 19 of the ILO Constitution.

7. In carrying out its task, which consists of indicating the extent to which the situation in each State appears to be in conformity with ratified Conventions and the obligations undertaken by that State by virtue of the ILO Constitution, the Committee has followed the principles of independence, objectivity and impartiality set forth in its previous reports. It has continued to apply the working methods recalled in its 1987

report.[1] A spirit of mutual respect, cooperation and responsibility has consistently prevailed in the Committee's relations with the International Labour Conference and its Committee on the Application of Standards, whose proceedings the Committee takes fully into consideration, not only in respect of general matters concerning standard-setting activities and supervisory procedures, but also in respect of specific matters concerning the way in which States fulfil their standards-related obligations.

8. In this context, the Committee again welcomed the participation of the Chairperson of its 70th Session as an observer in the general discussion of the Committee on the Application of Standards of the 88th Session of the International Labour Conference (May-June 2000). It noted the request by the abovementioned Committee for the Director-General to repeat this invitation for the 89th Session of the International Labour Conference (June 2001). The Committee was pleased to accept the invitation.

9. During the last ten years, the workload of the Committee has increased, both in quantity and complexity. This necessarily has affected the length and content of its report. Believing that its report only has value if it is read and understood particularly by governments, employers' and workers' representatives, the Committee has considered the impact of this trend. Accordingly, last year the Committee initiated a review of its own working methods and of the way its report is presented. As noted in its last General Report, the Committee intends that in future its reports should be presented in a style which is more accessible and in a form which is easier to read and comprehend. The Committee this year has focused on the use of language, to the extent that readers may note some change in style. This has been done with the aim of providing the wider community of readers a heightened understanding of the guarantees and practical application of Conventions. In this spirit, the Committee in its comments will in future make more explicit reference to issues of gender mainstreaming to ensure that this important aspect of the practical application of Conventions receives due consideration.

10. In this context the Committee received a presentation on the subject of "gender mainstreaming", which has been defined as follows: "The process of assessing the implications for women and men of any planned actions, including legislation, policies, or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally, and inequality is not perpetuated" (ECOSOC Agreed Conclusions of July 1997).[2] The Committee was provided with helpful information about the application of the concept of gender mainstreaming to the work of the ILO. The Committee also noted the Addendum to the General Comments adopted by the UN Human Rights Committee under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, relating to Equality of Rights between Men and Women, dated 29 March 2000. The Committee

[1] International Labour Conference, 73rd Session, 1987, Report III(4A), pp. 17-19, paras. 37-49.

[2] See: UN document A/52/3 of 18 Sep. 1997, Chapter IV, section A, para. 4.

appreciated the information they received concerning this important subject and recognized its relevance to the work of the Committee in the future.

11. The Chairperson of the Committee of Experts invited the Employer and Worker Vice-Chairpersons of the Committee on the Application of Standards of the 88th Session of the International Labour Conference to jointly pay a visit to this Committee at its present session. Both accepted this invitation and discussed with the Committee in a special session.

II. General

Membership of the Organization

12. Since the Committee's last session, the number of member States of the ILO has risen to 175. **Kiribati** became a Member of the Organization on 3 February 2000.

13. Following the adoption of resolution 55/12 of 1 November 2000 by the General Assembly of the United Nations under which the Federal Republic of Yugoslavia was admitted in the membership of the United Nations, the **Federal Republic of Yugoslavia** joined the ILO on 24 November 2000, following the Government's acceptance of the obligations of membership as laid down in the Organization's Constitution.

14. With the accession of the Federal Republic of Yugoslavia to membership, the number of ILO member States remains at 175. This is because further to the dissolution of the former Federal Socialist Republic of Yugoslavia, that State was kept on the list of member States until such time as the Federal Republic of Yugoslavia was either recognized as the continuation of the former Federal Socialist Republic of Yugoslavia or admitted to the International Labour Organization as a new Member.

New standards adopted by the Conference in 2000 and the coming into force of Conventions

15. The Committee noted that at its 88th Session (May-June 2000) the International Labour Conference adopted the Maternity Protection Convention (No. 183) and Recommendation (No. 191), 2000.

16. The Home Work Convention, 1996 (No. 177), and the Labour Inspection (Seafarers) Convention, 1996 (No. 178), having been ratified by **Finland** and **Ireland,** entered into force on 22 April 2000. The Recruitment and Placement of Seafarers Convention, 1996 (No. 179), having been ratified by **Philippines** and **Ireland,** entered into force on 22 April 2000. The Private Employment Agencies Convention, 1997 (No. 181), having been ratified by **Ethiopia** and **Morocco,** entered into force on 10 May 2000. The Worst Forms of Child Labour Convention, 1999 (No. 182), having been ratified by **Seychelles** and **Malawi**, entered into force on 19 November 2000.[3]

[3] For a complete list of ratifications of Conventions as of 31 December 2000, see: International Labour Conference, 89th Session, 2001, Report III (Part 2).

Policy on standards

17. The Committee welcomes the adoption by the Governing Body of the new integrated approach to the ILO standards-related activities. The purpose of this approach is, on the one hand, to reinforce the coherence and relevance of standards and, on the other hand, to enhance their impact through integrated action and systematic promotion and evaluation of standards. This approach is part of the efforts of the Organization to increase the visibility, effectiveness, and relevance of its standards system, which constitutes a political priority as was underlined by the Director-General in his Report to the 1999 Conference, *Decent work*.

18. The Committee notes with great interest that the Governing Body also achieved significant results through the work of the Working Party on Policy regarding the Revision of Standards. The Governing Body has taken decisions with regard to 176 Conventions and 186 Recommendations which can be grouped into three principal categories: up-to-date instruments, instruments to be revised, and outdated instruments. At this stage, 70 Conventions are considered as up to date and will be the subject of specific promotional activities, 21 Conventions have been approved by the Governing Body for revision, and 54 older Conventions have been proposed for denunciation, accompanied by the ratification of a corresponding recent or revising Convention. In the case of 35 Conventions, the constituents are also invited to provide additional information to the Office. The Governing Body stressed the importance of follow-up measures to its decisions regarding standards policy. In this context, it should be recalled that in June 1997 the Conference adopted an amendment to the ILO Constitution and modified its Standing Orders to allow for the abrogation or withdrawal of obsolete Conventions and Recommendations. Abrogation applies to Conventions which are in force, and withdrawal applies to Conventions which are not in force and to Recommendations. On the basis of the amended Standing Orders, the Conference withdrew, at its session in May-June 2000, five Conventions that had never entered into force.[4] The withdrawal of 20 Recommendations is on the agenda of the 90th Session (2002) of the Conference. Moreover, a ratification campaign for the constitutional amendment is currently under way; as of 8 December 2000, the amendment has been ratified or accepted by 64 member States.

Ratifications and denunciations

Ratifications

19. The list of ratifications by Convention and by country[5] indicates a total of 6,683 ratifications as at 31 December 1999. From 1 January 2000 to the end of the Committee's session on 8 December 2000, 146 ratifications had been received from 72 countries, bringing the total to 6,836.

[4] The withdrawn Conventions are the Hours of Work (Coal Mines) Convention, 1931 (No. 31); Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46); Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51); Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61); and the Migration for Employment Convention, 1939 (No. 66).

[5] International Labour Conference, 88th Session, Geneva, 2000, Report III (Part 2).

Denunciations accompanied by the ratification of a revising Convention

20. Since 1 January 2000, the Director-General has registered 59 denunciations accompanied by the ratification of a revising Convention.

Argentina ratified the Indigenous and Tribal Peoples Convention, 1989 (No. 169)

(denouncing the Indigenous and Tribal Populations Convention, 1957 (No. 107))

Austria ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Agriculture) Convention, 1921 (No. 10), and the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33))

Barbados ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), and the Minimum Age (Agriculture) Convention, 1921 (No. 10))

Belize ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Agriculture) Convention, 1921 (No. 10), and the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15))

Burundi ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention (Revised), 1937 (No. 59))

Central African Republic ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Agriculture) Convention, 1921 (No. 10), and the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33))

Chile ratified the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)

(denouncing the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42))

Congo ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), and the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33))

Czech Republic ratified the Private Employment Agencies Convention, 1997 (No. 181)

(denouncing the Fee-Charging Employment Agencies Convention, 1933 (No. 34))

Iceland ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), and the Minimum Age (Sea) Convention (Revised), 1936 (No. 58))

Italy ratified the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

(denouncing the Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32))

Italy ratified the Private Employment Agencies Convention, 1997 (No. 181)

(denouncing the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96))

Japan ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Agriculture) Convention, 1921 (No. 10), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), and the Minimum Age (Sea) Convention (Revised), 1936 (No. 58))

Madagascar ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), and the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33))

Morocco ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15))

Netherlands ratified the Private Employment Agencies Convention, 1997 (No. 181)

(denouncing the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96))

Panama ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), the Minimum Age (Fishermen) Convention, 1959 (No. 112), and the Minimum Age (Underground Work) Convention, 1965 (No. 123))

Poland ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Underground Work) Convention, 1965 (No. 123))

Senegal ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), and the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33))

Seychelles ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Agriculture) Convention, 1921 (No. 10), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), and the Minimum Age (Sea) Convention (Revised), 1936 (No. 58))

Sri Lanka ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Agriculture) Convention, 1921 (No. 10), and the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15))

Switzerland ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), and the Minimum Age (Underground Work) Convention, 1965 (No. 123))

Tunisia ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Underground Work) Convention, 1965 (No. 123))

United Kingdom ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Industry) Convention, 1919 (No. 5), the Minimum Age (Sea) Convention, 1920 (No. 7), the Minimum Age (Agriculture) Convention, 1921 (No. 10), and the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15))

Yemen ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15))

Zambia ratified the Minimum Age Convention, 1973 (No. 138)

(denouncing the Minimum Age (Underground Work) Convention, 1965 (No. 123))

Denunciations following the recommendation of the Governing Body on the policy regarding the revision of standards

21. Chile denounced two Conventions: the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), and the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18). The **Czech Republic** denounced the Survivors' Insurance (Agriculture) Convention, 1933 (No. 40). **Mauritius** denounced the Recruiting of Indigenous Workers Convention, 1936 (No. 50).

Denunciations not accompanied by the ratification of a revising Convention[*]

22. A denunciation not accompanied by the ratification of another revising Convention was registered from the **Netherlands** for the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).

Declarations

23. France made a declaration on behalf of *New Caledonia* of the application without modification of the Labour Inspection Convention, 1947 (No. 81).

24. The **Netherlands** made a declaration on behalf of *Aruba* of denunciation of the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).

[*] The Committee wishes to recall a point raised in the General Survey concerning the problem of the simultaneous application of two Conventions on the same subject. The problem stems from the fact that, since the ratification of a revising Convention does not always entail the automatic denunciation of the revised Convention, some Members do not take the necessary measures to denounce the earlier Convention and thus continue to be bound by both the revised and the revising instruments. This is the case, for instance, of Conventions Nos. 41 and 89 in relation to Convention No. 4, all dealing with the night work of women in industry. This situation results in the piling up of complex and often conflicting legal obligations owing to the simultaneous application of differing provisions on the same subject. The Committee considered it therefore advisable to suggest on a case-by-case basis to the States concerned to envisage the denunciation of those Conventions which should have been denounced following the ratification, or in some cases the denunciation, of revising Conventions.

Notifications

25. The Director-General registered the following notifications by **China** concerning the application without modification as of 20 December 1999 of the following international labour Conventions to the *Special Administrative Region of Macau*: Hours of Work (Industry) Convention, 1919 (No. 1); Night Work of Young Persons (Industry) Convention, 1919 (No. 6); Weekly Rest (Industry) Convention, 1921 (No. 14); Workmen's Compensation (Accidents) Convention, 1925 (No. 17); Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18); Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19); Minimum Wage-Fixing Machinery Convention, 1928 (No. 26); Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27); Forced Labour Convention, 1930 (No. 29); Food and Catering (Ships' Crews) Convention, 1946 (No. 68); Certification of Ships' Cooks Convention, 1946 (No. 69); Medical Examination (Seafarers) Convention, 1946 (No. 73); Certification of Able Seamen Convention, 1946 (No. 74); Labour Inspection Convention, 1947 (No. 81); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Employment Service Convention, 1948 (No. 88); Accommodation of Crews Convention (Revised), 1949 (No. 92); Right to Organise and Collective Bargaining Convention, 1949 (No. 98); Equal Remuneration Convention, 1951 (No. 100); Abolition of Forced Labour Convention, 1957 (No. 105); Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106); Seafarers' Identity Documents Convention, 1958 (No. 108); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Radiation Protection Convention, 1960 (No. 115); Hygiene (Commerce and Offices) Convention, 1964 (No. 120); Employment Policy Convention, 1964 (No. 122); Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148); Occupational Safety and Health Convention, 1981 (No. 155); and as of 6 October 2000, the Minimum Age Convention, 1973 (No. 138).

26. In conformity with Article 16, paragraph 3, of Convention No. 160, **Finland** notified its acceptance of the provisions of its Article 11 as from 5 December 2000.

Constitutional and other procedures

27. The Committee had been informed of the decisions taken since its last session by the Governing Body in cases where the Governing Body had recourse to the constitutional procedures in respect of complaints, representations and other procedures.

A. Complaints submitted under article 26 of the ILO Constitution

Complaint against Myanmar

28. The Committee notes that the Governing Body decided at its 277th Session (March 2000) to recommend that the Conference take measures in accordance with article 33 of the Constitution to secure compliance with the recommendations contained in the report of the Commission of Inquiry on forced labour in **Myanmar**, and it notes the report of the technical advisory mission to Myanmar that took place from 23 to 27 May 2000. It also notes the discussions that took place at the 88th Session of the

International Labour Conference, resulting in a resolution containing a series of measures that would take effect on 30 November 2000 unless, before that date, the Governing Body of the ILO was satisfied that the intentions expressed by the Minister of Labour during the discussions in the Conference had been translated into a framework of legislative, executive and administrative measures that were "sufficiently concrete and detailed to demonstrate that the recommendations of the Commission of Inquiry have been satisfied". The measures included:

(a) to decide that the question of the implementation of the Commission of Inquiry's recommendations and of the application of Convention No. 29 by Myanmar should be discussed at future sessions of the International Labour Conference, at a sitting of the Committee on the Application of Standards specially set aside for the purpose, so long as this Member has not been shown to have fulfilled its obligations;

(b) to recommend to the Organization's constituents as a whole – Governments, Employers and Workers – that they: (i) review, in the light of the conclusions of the Commission of Inquiry, the relations that they may have with the member State concerned and take appropriate measures to ensure that the said Member cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry, and to contribute as far as possible to the implementation of its recommendations; and (ii) report back in due course and at appropriate intervals to the Governing Body;

(c) as regards international organizations, to invite the Director-General: (i) to inform the international organizations referred to in article 12, paragraph 1, of the Constitution, of the Member's failure to comply; (ii) to call on the relevant bodies of these organizations to reconsider, within their terms of reference and in the light of the conclusions of the Commission of Inquiry, any cooperation they may be engaged in with the Member concerned and, if appropriate, to cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced or compulsory labour;

(d) regarding the United Nations specifically, to invite the Director-General to request the Economic and Social Council (ECOSOC) to place an item on the agenda of its July 2001 session concerning the failure of Myanmar to implement the recommendations contained in the report of the Commission of Inquiry and seeking the adoption of recommendations directed by ECOSOC or by the General Assembly, or by both, to governments and to other specialized agencies and including requests similar to those proposed in subparagraphs (b) and (c) above;

(e) to invite the Director-General to submit to the Governing Body, in the appropriate manner and at suitable intervals, a periodic report on the outcome of the measures set out in subparagraphs (c) and (d) above, and to inform the international organizations concerned of any developments in the implementation by Myanmar of the recommendations of the Commission of Inquiry.

29. The Committee further notes that a second technical advisory mission took place from 20 to 26 October 2000. At its 279th Session (November 2000), the Governing Body could only conclude that the Government had not demonstrated that the recommendations of the Commission of Inquiry had been satisfied and, as a result, the measures recommended by the Conference entered into force on 30 November 2000.

Complaint against Colombia

30. At its 86th Session (June 1998), the Conference received a complaint presented by 26 Worker delegates under article 26 of the Constitution concerning the non-observance by **Colombia** of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). At its 276th Session (November 1999), the Governing Body noted the contents of an agreement, dated 16 November 1999, in which the representatives of the Government of Colombia and the representatives of the workers of the country agreed to request the Governing Body to appoint a direct contacts mission to the country. The Governing Body agreed that it would decide whether or not to establish a commission of inquiry in June 2000 and that, when making that decision, the Governing Body could take into account the information provided by the direct contacts mission and the Committee on Freedom of Association. The direct contacts mission, which took place in Colombia (Bogotá and Medellín) from 7 to 16 February 2000, was made up of Mr. Cassio Mesquita Barros, a member of the Committee of Experts on the Application of Conventions and Recommendations and professor of labour law (São Paulo), and Mr. Alberto Pérez-Pérez, professor of human rights and constitutional law (Montevideo), who were accompanied by officials from the Freedom of Association Branch of the International Labour Standards Department of the ILO. The mission's mandate, according to the agreement concluded between the Government and the Colombian trade union confederations, was to "evaluate the situation in Colombia with respect to freedom of association, particularly as regards cases currently before the Committee on Freedom of Association", to submit a first report to the Committee on Freedom of Association at its March 2000 meeting (see this report in the Committee's 320th Report) and to present a complete report for consideration at its meeting in May 2000. At the 278th Session of the Governing Body (June 2000), the Committee on Freedom of Association noted the report of the direct contacts mission and considered that it was for the Governing Body to decide whether it was appropriate to establish a commission of inquiry. In this respect, the Committee on Freedom of Association drew the Governing Body's attention to the final observations and conclusions of the report of the direct contacts mission and to the recommendations on the pending cases and, in particular, on Case No. 1787. At the request of the Governing Body, the Director-General appointed a Special Representative for Cooperation with Colombia, Mr. Rafael Alburquerque, former Secretary of State for Labour of the Dominican Republic, to assist in and verify the actions taken by the Government and the employers' and workers' organizations to implement the conclusions of the direct contacts mission and the recommendations of the Committee on Freedom of Association. It also decided to review the situation at its session in June 2001. Mr. Alburquerque visited Colombia from 30 September to 6 October 2000, and presented a preliminary report to the Governing Body at its 279th Session in November 2000. A new report will be produced for the March 2001 meeting of the Governing Body.

B. Representations submitted under article 24 of the ILO Constitution

31. The following representations were declared receivable:

- Representation made by the Central Unitary Workers' Union (CUT) and the Colombian Medical Trade Union Association (ASMEDAS) alleging non-observance by ***Colombia*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (277th Session, March 2000).
- Representation made by the Sulinermik Inuussutissarsiuteqartut Kattuffiat (SIK) alleging non-observance by ***Denmark*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (277th Session, March 2000).
- Representation made by the Ecuadorian Confederation of Free Trade Union Organizations (CEOSL) alleging non-observance by ***Ecuador*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (277th Session, March 2000).

32. The report of a tripartite committee was adopted for the following representations:

- Representation made by a number of national workers' unions of the private sector pension funds (AFP) alleging non-observance by ***Chile*** of the Old-Age Insurance (Industry, etc.) Convention, 1933 (No. 35), the Old-Age Insurance (Agriculture) Convention, 1933 (No. 36), the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37), and the Invalidity Insurance (Agriculture) Convention, 1933 (No. 38) (277th Session, March 2000).
- Representation made by the General Federation of Trade Unions of the Republic of Moldova alleging non-observance by the ***Republic of Moldova*** of the Protection of Wages Convention, 1949 (No. 95) (278th Session, June 2000).
- Representation made by the Confederation of Turkish Trade Unions (TÜRK-IŞ) alleging non-observance by ***Turkey*** of the Termination of Employment Convention, 1982 (No. 158) (279th Session, November 2000).

33. The following representations are still pending:

- Representation made by the Central Unitary Workers' Union (CUT) alleging non-observance by ***Colombia*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (276th Session, November 1999).
- Representation made by the National Confederation of Eritrean Workers (NCEW) alleging non-observance by ***Ethiopia*** of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Termination of Employment Convention, 1982 (No. 158) (273rd Session, November 1998).
- Representation made by the New Zealand Trade Union Federation alleging non-observance by ***New Zealand*** of the Forced Labour Convention, 1930 (No. 29) (275th Session, June 1999).
- Representation made by the General Confederation of Workers of Peru (CGTP) alleging non-observance by ***Peru*** of the Indigenous and Tribal Peoples Convention, 1989 (No. 169) (273rd Session, November 1998).
- Representation made by the Latin American Central of Workers (CLAT) and the Latin American Federation of Commerce (FETRALCOS) alleging non-observance by ***Venezuela*** of the Employment Policy Convention, 1964 (No. 122) (273rd Session, November 1998).

C. Special procedures concerning freedom of association

34. At each of its last meetings (March, June and November 2000), the Committee on Freedom of Association had before it an average of some 130 cases concerning around 60 countries from all parts of the world, for which it presented interim or final conclusions, or for which the examination was adjourned pending the arrival of information from governments (320th, 321st, 322nd and 323rd Reports). Many of these cases have been before the Committee on several occasions. Moreover, since the last meeting of the Committee of Experts, some 50 new cases have been submitted to the Committee on Freedom of Association. Missions concerning certain cases pending before the Committee on Freedom of Association visited **Belarus**, **Colombia** and **Indonesia**.

35. The Committee on Freedom of Association drew the attention of the Committee of Experts to the legislative aspects of the following cases: Nos. 1963 (**Australia**), 1849 (**Belarus**), 1975 and 2025 (**Canada/Ontario**), 2023 and 2044 (**Cape Verde**), 1961 (**Cuba**), 1470 (**Denmark**), 2011 (**Estonia**), 1931 (**Panama**), 1891 and 2017 (**Romania**), 1959 (**United Kingdom**), 2019 (**Swaziland**), 1977 (**Togo**), 2038 and 2079 (**Ukraine**) and 1993 (**Venezuela**).

Fiftieth anniversary of the Equal Remuneration Convention, 1951 (No. 100)

36. Since its foundation in 1919, the ILO has been concerned with securing the right of men and women workers to equal remuneration for work of *equal value*. The original text of the ILO Constitution recognized this principle to be "of special and urgent importance". In 1951, the constitutional principle was made operational when the International Labour Conference adopted the Equal Remuneration Convention (No. 100) and its supplementary Recommendation (No. 90). It was the first ILO Convention to promote the principle of equality between men and women, and in so doing it marked the future orientation of the ILO's activities on women workers. It is a measure of its international acceptance that, as of December 2000, Convention No. 100 has been ratified by 148 member States out of the total membership of 175, becoming the second most highly ratified international labour Convention.

37. The ILO's principal concerns on fundamental labour rights were consolidated into the 1998 Declaration on Fundamental Principles and Rights at Work. It includes a general obligation on States which have not ratified the ILO's fundamental Conventions on discrimination, inter alia, to respect their basic principles while working towards ratification. Convention No. 100 is one of the instruments covered by the Declaration.

38. Despite the continued affirmation of its relevance and significance as a basic right to which both men and women should be entitled in every society regardless of its level of development, full application and understanding of the principle of equal pay for work of equal value remains elusive. Pay differentials remain one of the most persistent forms of inequality between women and men. Ever since women entered the labour force they have, in general, been paid less than men. At one time, in many countries, this lower pay for women was an explicit policy – such explicit policies are now firmly of the past. While women's participation in the labour market has increased remarkably

over the last decade in most parts of the world, the Committee has noted that women still face discrimination on the labour market.

39. Wage differentials between men and women workers vary from country to country and, within a country, between the public and private sectors as well as between the different sectors of the economy. The Committee has noted the wide range of this wage gap. Internationally, on average, women earn approximately two-thirds of what men earn. Most countries have made some progress in reducing the wage gap, but as the Committee's observations show, even this does not hold true for all. In some instances, initial progress in narrowing the wage gap has been cut short by forces associated with globalization, privatization and structural or other changes linked to economic difficulties.

40. It is now recognized that the causes of pay differentials between men and women are found both within and outside the labour market. Many difficulties encountered in achieving equal remuneration are closely linked to the general status of women and men in employment and society. The male female wage gap has been traced mainly to the following factors: lower, less appropriate and less career-oriented education, training and skills levels; horizontal and vertical occupational segregation of women into lower-paying jobs or occupations and lower level positions without promotion opportunities; household and family responsibilities; perceived costs of employing women, and pay structures. In some countries, particularly in the agriculture sector, collective agreements may still reflect male and female pay rates and, in some countries, differential productivity rates are set for men and women. The establishment of centralized minimum standards, narrow pay dispersion and transparency of pay structures have been identified as factors which could address the pay structure differences and help reduce the gender pay gap.

41. During the preparation of the Convention and its Recommendation, the International Labour Conference (33rd Session, Geneva, 1950) recognized that there are multiple and complex links between the principle of equal remuneration and the position and status of men and women more generally in employment and society. These considerations led the Conference to propose a series of measures in Recommendation No. 90 to facilitate application of the principle of Convention No. 100 – all of which are still valid today. Thus, social policies intended to facilitate application of the principle of equal remuneration should include measures aimed at ensuring that men and women workers have equal or equivalent facilities for vocational guidance, training and placement, equal access to jobs and occupations and welfare and social services designed to meet the needs of women workers, particularly those with family responsibilities. These broader objectives implied in application of the principle of the Convention have subsequently been incorporated into other ILO instruments such as the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Workers with Family Responsibilities Convention, 1981 (No. 156).

42. The term "equal remuneration for men and women workers for work of equal value" contained in the Convention refers to rates of remuneration established without discrimination based on sex. Value, while not defined specifically in the Convention, refers to the worth of the job for purposes of computing remuneration. The Convention does not limit application of the concept of equal value to implementation through the methodology of comparable worth, but it certainly indicates that something other than

market forces should be used to ensure application of the principle. It suggests that objective job appraisals should be used to determine valuation where deemed useful, on the basis of the work to be performed and not on the basis of the sex of the jobholder. While job appraisal systems are still a common feature of wage setting, other bases for the calculation of wages – including minimum wages, productivity pay, and new competency-based wage systems – are covered by the Convention.

43. The measures required by a government to meet its obligation under the Convention are flexible, and are dependent on the methods already in operation for determining wages or remuneration. Wherever the State is not in a position to *ensure the application of the principle of equal remuneration*, it must nevertheless *promote* its application. The adoption of the concept of equal remuneration for work of equal value necessarily implies some comparison between jobs. The Committee has stated, in this regard, that the scope of comparison should be as wide as is allowed for by the wage system in existence. As men and women tend to perform different jobs, in order to eliminate wage discrimination on the basis of sex, it is essential to establish appropriate techniques and procedures to measure the relative value of jobs with varying content. The Convention does not favour any particular method of evaluation. However, many countries use the analytical job evaluation methodology and there is a growing consensus that it is the most practicable method of ensuring the application of the principle of equal remuneration in practice. What the Committee is most concerned about and does advocate, is that the utmost care be taken in including factors to take sufficiently into account jobs commonly regarded as being carried out by women, so that the degree of subjectivity and gender bias is minimized.

44. The Committee has therefore stressed that care should be taken to prevent sex stereotyping from entering the job evaluation process, as this may result in an under-evaluation of tasks performed primarily by women or those perceived as intrinsically "feminine". It is therefore essential to take measures to ensure that job evaluations are done on the basis of objective criteria. These criteria should not undervalue skills normally required for jobs that are in practice performed by women, such as providing care, manual dexterity and human relations skills, nor should they overvalue those attributes, such as physical strength, typically associated with jobs traditionally performed by men. The qualities most often attributed to women tend to be undervalued by society in comparison with those qualities which men are said to possess. Not surprisingly, societal values are also reflected in wage systems. Many traditional job evaluation systems also show an obvious gender bias by undervaluing or ignoring the support and non-managerial work often performed by women. Over the years, the Committee has been able to note improvements in governments' and social partners' attempts to remove gender bias from the factors upon which job evaluations are based.

45. In 1990, the Committee concluded from its review of reports that most ratifying States have serious difficulties in applying the main requirement of the Convention, which is "to promote [...] and ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value". The Committee noted at that time that the difficulties encountered by governments which have ratified the Convention appeared to be due to a number of factors, including: lack of knowledge of the true situation due to the unavailability or inadequacy of data and research; lack of understanding of the concept of equal value; ignorance of the

principles of job evaluation; and lack of the financial resources necessary to collect and analyse data and to institute systems of job evaluation.

46. By 1998, the Committee noted in a general observation that it had been able to note with satisfaction, or interest, the adoption of national legislation in a number of cases requiring the payment of equal remuneration for men and women for work of equal value, in accordance with the Convention. It appeared to the Committee that a greater understanding was emerging among governments and the social partners that, in order to apply the Convention fully, efforts must be made that go beyond the mere removal of male and female wage classifications. Nevertheless, the Committee noted that difficulties in the application of the Convention continued. The Committee emphasized that an analysis of the position and pay of men and women in all job categories within and between the various sectors is required to address fully the continuing remuneration gap between men and women which is based on sex. The Committee, noting the lack of adequate data, recommended the manner in which statistics would have to be collected in order to undertake such an assessment. Governments have therefore been urged to analyse the national situation in order to determine the extent and the nature of the pay gap, by sector if possible, as a starting point in addressing the equal pay issue.

47. The marked progress in the application of the principle that has been noted by the Committee includes the recognition by countries of the very broad definition of remuneration contained in the Convention which seeks to ensure that equality is not limited to the basic or ordinary wage. Increasingly countries are extending protections of equality in law and practice to ensure that additional payments and fringe benefits such as uniforms, housing, travel allowances and dependency allowances are included in the definition of remuneration and are not differentiated on the basis of sex. In those countries where pay levels are linked closely to seniority, the Committee has suggested that consideration might be given to allowing women a seniority credit for time taken out of the workforce to care for family members. At the very least, seniority levels should not be lost for taking maternity or family leave. Some new laws, in addition to setting out the principle of the Convention, also provide that the various components of remuneration must be established according to identical standards for men and for women, that professional categories and classifications and the criteria for promotion must be common to workers of both sexes, and that methods for the evaluation of jobs must be based on objective and identical criteria, and essentially on the nature of the work involved. The Committee has noted positive action measures taken by a number of ratifying States to implement the Convention in practice. Some examples of these include the adoption of codes of conduct, equal pay plans, pay equity councils, pay valuation guides, modernization of public personnel classification schemes, undertaking of job evaluation exercises, undertaking of surveys to identify areas of wage differentials and granting of pay equity benefits to compensate for past pay differentials based on sex. Many countries have established and extended minimum wages and/or issued guidelines on wage levels generally. Although not expressly required under Convention No. 100, the setting of minimum wages is an important means by which the Convention is applied.

48. In keeping with the ILO's tripartite structure and approach to problem-solving, *Article 4 of the Convention* requires each ratifying country to cooperate as appropriate with the employers' and workers' organizations concerned to give effect to

the Convention. In addition to engaging in collective bargaining, social partners' cooperation may also take the form of participating in job evaluation design and application and of developing national wage and equal pay policies (though some trade unions try to reduce the pay gap by treating it as an issue of low pay and not only an issue of gender discrimination).

49. The Committee of Experts has long taken the view that wage discrimination cannot be tackled effectively unless action is also taken simultaneously to deal with all of its sources. As is evident from the preceding discussion, it is important to discuss equal remuneration and job evaluation in the context of a more general protection against discrimination, such as that offered in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Workers with Family Responsibilities Convention, 1981 (No. 156). The Committee continues to emphasize that a comprehensive approach to the reduction and elimination of pay disparity between men and women involving societal, political, cultural and labour market interventions is required. The Committee believes that the application of the principle of equal pay for work of equal value should be an explicit and necessary part of such a strategy as it has advantages that non-labour-market strategies appear unable to achieve on their own. The Committee has noted that the adoption of adequate legislation requiring equal pay for work of equal value is important, but is insufficient to achieve the goals of the Convention. Policies that only deal with labour market discrimination are inadequate, since factors arising outside the labour market (relating to traditional ideas about the role of women and the conflict between work and family responsibilities) appear to be a more significant source of pay inequality than factors which originate within the labour market. The continued persistence of the wage gap requires that governments, along with social partners, take more proactive measures to raise awareness, make assessments, and promote and enforce application of the principle of equal pay for work of equal value.

50. In this fiftieth anniversary year of the Convention, the Committee can note with interest the indications that some governments and social partners are focusing on the issue of equal pay as a matter of priority. In hoping for greater implementation of the Convention, the Committee must conclude by welcoming the progress that has been achieved in the application of the principle of equal remuneration between men and women and the leading role that Convention No. 100 has played during these 50 years.

Functions in regard to other international instruments of universal and regional character

A. United Nations treaties concerning human rights

51. The Office regularly sends written reports and submits oral information, in accordance with existing arrangements, to the various bodies responsible for the application of United Nations Conventions that are relevant to the ILO's mandate. These bodies constitute the supervisory machinery established by the United Nations to examine reports which governments are required to submit at regular intervals on each of the United Nations instruments that they have ratified. Since the Committee's last meeting, the Office has actively participated in the work of the bodies supervising the following treaties:

- the International Covenant on Economic, Social and Cultural Rights (two sessions, reported on nine countries);
- the International Covenant on Civil and Political Rights (two sessions, reported on ten countries);
- the Convention on the Elimination of All Forms of Discrimination against Women (one session, reported on eight countries);
- the International Convention on the Elimination of All Forms of Racial Discrimination (one session, reported on 14 countries); and
- the United Nations Convention on the Rights of the Child (three sessions, reported on 18 countries).

52. The Office was also represented at the 12th (June 2000) *Meeting of persons chairing the human rights treaty bodies* to discuss closer cooperation between the UN treaty bodies and the ILO and, in particular, how the treaty bodies would make better use of the detailed information provided in the ILO reports. In addition, the Office was represented at the Seventh Annual Meeting of Special Rapporteurs/Experts/ Representatives and Chairpersons of UN Working Groups, at which progress was achieved in ensuring that these United Nations mechanisms work in closer cooperation with the ILO.

B. European treaties

European Code of Social Security and its Protocol

53. In accordance with the supervisory procedure established under article 74(4) of the Code, and the arrangements made between the ILO and the Council of Europe, the Committee of Experts examined 16 reports on the application of the European Code of Social Security and, as appropriate, its Protocol. It noted that the States parties to the Code and the Protocol continue in large measure to apply them. At the sitting in which the Committee examined the reports on the European Code of Social Security and its Protocol, the Council of Europe was represented by Ms. Michelle Akip, Deputy Chief of the Social Policy Unit of the General Directorate for Social Cohesion. The conclusions of the Committee regarding these reports will be sent to the Council of Europe.

54. In addition, representatives of the ILO took part in the meeting of the Committee of Experts on Standard-Setting Instruments in the field of social security, held in Strasbourg (France) in September 2000, to examine the application of these instruments on the basis of the conclusions of this Committee. The Committee of Experts on Standard-Setting Instruments endorsed the conclusions of the Committee of Experts.

European Social Charter

55. In the context of its collaboration with the Council of Europe, representatives of the ILO participated in the course of 2000, in an advisory capacity, in accordance with article 26 of the European Social Charter, in several sessions of the European Committee of Social Rights.

56. Since the Committee's last meeting, **Bulgaria**, **Cyprus**, **Estonia** and **Ireland** have ratified the European Social Charter (Revised); **Spain** has ratified the Additional

Protocol to the European Social Charter and the Protocol amending the European Social Charter, which has also been ratified by **Belgium**; **Ireland** has signed (this signature carries the weight of ratification) the Additional Protocol to the European Social Charter providing for a system of collective complaints, and **Bulgaria** accepted it in application of the provisions of the European Social Charter (Revised).

Collaboration with other international organizations

Cooperation in the field of standards with the United Nations and the specialized agencies

57. In the context of the collaboration established with other international organizations on questions concerning the supervision of the application of universal instruments relating to subjects of common interest, copies of the reports received under article 22 of the Constitution were forwarded to the United Nations, specialized agencies, and intergovernmental organizations with which the ILO has entered into special arrangements for this purpose.

58. Thus, in accordance with established practice, copies of the reports received on the Indigenous and Tribal Populations Convention, 1957 (No. 107), and on the Indigenous and Tribal Peoples Convention, 1989 (No. 169), were forwarded for comment to the United Nations, the United Nations Food and Agriculture Organization (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and to the World Health Organization (WHO); copies of these reports were also sent to the Inter-American Indian Institute of the Organization of American States and to the Office of the High Commissioner for Human Rights. Copies of the reports on the Radiation Protection Convention, 1960 (No. 115), were transmitted to the International Atomic Energy Agency (IAEA). Copies of the reports on the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117), were forwarded to FAO, UNESCO and the United Nations; copies of these reports were also sent to the Office of the High Commissioner for Human Rights. Copies of the reports on the Rural Workers' Organisations Convention, 1975 (No. 141), were transmitted to FAO and the United Nations; copies of these reports were also sent to the Office of the High Commissioner for Human Rights. Copies of the reports on the Human Resources Development Convention, 1975 (No. 142), were forwarded to UNESCO. A copy of the report on the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), was transmitted to the United Nations, UNESCO and WHO; a copy of this report was also sent to the Office of the High Commissioner for Human Rights. Copies of the reports on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), were forwarded to the International Maritime Organization (IMO). Copies of the reports on the Nursing Personnel Convention, 1977 (No. 149), were transmitted to WHO.

59. Representatives of these organizations were invited to attend the sittings of the Committee of Experts in which the Conventions in question were discussed.

60. Problems concerning the protection of seafarers and their families have been the subject of a Joint IMO/ILO Ad Hoc Expert Working Group on liability and compensation regarding claims for death, personal injury and abandonment of seafarers set up in October 1999. The Working Group is examining the adequacy of international standards to secure crew claims, given both the specificity of maritime employment and

the present structure of protection and indemnity insurance. At the second meeting of the Working Group, in November 2000, the possibility of developing a joint IMO/ILO instrument and Guidelines was raised and work begun will be pursued in 2001.

Matters relating to human rights

61. There have been a number of developments in the last year, which the Committee desires to note. These detail a growth in attention outside the ILO in matters relating to international labour standards, and a growing conviction in other international organizations that sustainable economic development cannot take place without constant attention to the situation of workers, particularly in a world economy undergoing the effects of globalization.

62. The Committee will recall that the Governing Body decided, at its March-April 1995 session, to collect information on the ratification situation of the ILO Conventions dealing with fundamental human rights (Conventions Nos. 29 and 105, 87 and 98, 100 and 111, and 138 and 182, the latter having been added after its adoption in 1999) and, at its subsequent sessions, examined reports collating the replies of member States to the Director-General's letter calling for their universal ratification. The Governing Body has also examined reports of the Office's assistance to the member States for the ratification and application of these instruments. The campaign has been a great success, with more than 245 new ratifications or confirmations of ratifications previously applicable, undertaken by 104 countries. The symbolic figure of 1,000 ratifications (of a possible total of 1,400) of these Conventions was surpassed in September 2000. The campaign continues, and the Office has been notified that a number of other ratifications are likely in the near future, but the Worst Forms of Child Labour Convention, 1999 (No. 182), stands out as receiving more than 50 ratifications, the fastest pace in ILO history. In addition, the Committee notes that the number of ratifications of the Minimum Age Convention, 1973 (No. 138), has doubled since 1995, the year in which the campaign began.

63. The 23rd Special Session of the General Assembly, entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century" was held from 5 to 9 June 2000, and provided an opportunity to assess progress made and obstacles encountered in the implementation of the Platform for Action agreed to at the Fourth World Conference on Women held in Beijing in 1995. The final document that was adopted calls for measures to ensure that women reap the benefits rather than bear the burden of globalization. Among other conclusions, the agreed text calls for the respect, promotion and realization of the principles contained in the ILO's Declaration on Fundamental Principles and Rights at Work, and asks UN member States to "strongly consider ratification and full implementation of ILO Conventions which are particularly relevant to ensuring women's rights at work".

64. The 24th Special Session of the General Assembly of the United Nations entitled "World Summit for Social Development and Beyond: Achieving Social Development for All in a Globalizing World", was held from 26 June to 1 July 2000, with the active participation of the ILO. This was a follow-up to the 1995 World Summit for Social Development, which gave rise to the campaign for the ratification of the ILO's fundamental Conventions, referred to in the previous paragraph. Of particular

significance was the explicit endorsement of the ILO's decent work programme. Delegates also recognized the "need to elaborate a coherent and coordinated international strategy on employment", and to support "continuing efforts towards ratifying and fully implementing the ILO Conventions concerning basic workers' rights" and to "respect, promote and realize the principles contained in the ILO Declaration" on Fundamental Principles and Rights at Work.

65. In May 2000 the Office was represented at the first preparatory committee for the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, scheduled for South Africa in August 2001. The Office has also participated in regional workshops and other preparatory meetings for this Conference, and intends to take an active part in it.

66. On 26 July 2000 a High-Level Meeting on the UN Global Compact was convened by the UN Secretary-General to obtain the commitment of world business to promoting universal values, which include fundamental rights and principles at work. The Secretary-General challenged business leaders to "embrace and enact" the Compact of nine principles covering topics in human rights, labour and environment.

67. The Office took part actively in the 56th (March-April 2000) Session of the United Nations Commission on Human Rights, and the 52nd (August 2000) Session of the United Nations Sub-Commission on Promotion and Protection of Human Rights. It also participated in meetings of several of their subsidiary organs, in particular the Sub-Commission's Working Groups on Indigenous Populations and on Contemporary Forms of Slavery, which took place throughout the year, providing written and oral information on relevant ILO standards, procedures and activities. The Sub-Commission itself considered a preliminary report in August 2000 on "Globalization and its Impact on the Full Enjoyment of Human Rights".

68. Following the General Assembly's proclamation of 1994-2004 as the International Decade of the World's Indigenous People, the Office has continued to contribute to the Decade by organizing its own events and by collaborating with the Office of the High Commissioner for Human Rights. The Office is providing technical support to two Danish-funded projects to promote the rights of indigenous and tribal peoples within the framework of relevant ILO standards, in particular Convention No. 169, and is also continuing a number of other activities in this regard. The Committee notes that the Office has recently established an internal task force to consider in a more integrated fashion the questions that arise on this subject.

69. In the context of strengthening its technical advisory services on human rights, the Office has maintained collaboration with the United Nations through the Office of the High Commissioner for Human Rights. The Office has responded with written replies to the numerous requests for information received from the High Commissioner for Human Rights. It has also – through its International Training Centre in Turin – taken part in UN workshops on international human rights instruments reporting and has participated in joint briefing sessions with other United Nations agencies for country or thematic rapporteurs.

70. The Organisation for Economic Co-operation and Development (OECD) completed in August 2000 an updated study entitled "International Trade and Core Labour Standards", following up an earlier study done in 1996. The updated report presented an analysis of the developments in this area since 1996, focusing on its earlier

conclusion that the absence or inadequacy of core standards was not a significant factor increasing competitive advantage in international trade, and that there was a positive interaction between the liberalization of international trade and the application of core rights. It found nothing in developments since then to contradict this earlier conclusion, and reported on several positive developments in recent years.

71. The European Conference of the European Union, held in Nice, proclaimed the Charter of Fundamental Rights on 7 December 2000. This Charter of Fundamental Rights combines in a single text the civil, political, social and societal rights hitherto laid down in a variety of international, European or national sources. The text puts strong emphasis in particular on social and economic rights, including workers' fundamental rights such as the prohibition of slavery and forced labour; freedom of association and collective bargaining; prohibition of child labour; and non-discrimination, stressing equality between men and women in all areas including employment, work and pay.

Questions concerning the application of Conventions

Application of the Forced Labour Convention, 1930 (No. 29)

A. Trafficking in persons

72. The Committee has taken note of the report, dated 2 November 2000, of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh sessions, submitted to the United Nations General Assembly at its fifty-fifth session.[1] It notes that on 15 November 2000, the General Assembly adopted the United Nations Convention against Transnational Organized Crime, and the draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing it.

73. The Committee notes that under article 3 of the Protocol (Use of terms):

> For the purposes of this Protocol:
>
> (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
>
> (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
>
> (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
>
> (d) "Child" shall mean any person under 18 years of age.

[1] United Nations document A/55/383 and Add.1.

74. Under article 5 of the Protocol (Criminalization):

1. Each State party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

75. The Protocol further contains a series of provisions for the protection of victims of trafficking in persons and the prevention of trafficking, cooperation and other measures, including information exchange and training for law enforcement officers.

76. The Committee also notes the growing awareness of the present-day trafficking in persons which affects developing countries, countries in transition and industrialized market economy countries, as countries of origin or destination of victims, or both. This awareness has been reflected in a number of recent international meetings with the participation of governments and intergovernmental as well as non-governmental organizations seeking to stem this scourge which has become a major activity of transnational organized crime.

77. While the magnitude of the problem is thus generally recognized, it has found little reflection so far in government reports under the Forced Labour Convention, in particular as regards industrialized market economy countries, which are choice destinations of the trafficking in persons. Reasons for this may be found, in part, in the efficiency with which organized crime shields its activities from interference by the authorities, inter alia, through intimidation of the victims; but part of the reason may also lie in the fact that the victims are all too often likely to be perceived by the authorities as illegal aliens[*] rather than as victims of organized crime.

78. In some countries though, recent legislation to combat the trafficking in persons provides for special visas for the victims of trafficking so that they can stay in the country while their exploiters are prosecuted, and possibly permanently. Even there, the victims' fears of the exploiters' reprisals against them or their family members back home, coupled with constraints ranging from physical confinement and the retention of victims' identity documents to the fact that they often do not even know the language of the country of destination, let alone its laws, are factors which may contribute to the scarcity of denunciations and prosecutions of the exploiters and thus to the persistence of

[*] The smuggling of migrants is the subject of a separate Protocol adopted by the General Assembly on 15 November 2000, the "Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime". That Protocol, as well as the one to prevent, suppress and punish the trafficking in persons, are also relevant to the application of other ILO standards, particularly those on migrant workers, and to questions of discrimination.

a problem which is generally recognized to be serious, but rarely reported under the Convention.

79. The Committee recalls that, under Article 1, paragraph 1, of Convention No. 29, ratifying States are bound to suppress all forms of forced or compulsory labour within the shortest possible period, and under Article 25, the illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

80. While the penal legislation of most countries having ratified Convention No. 29 provides for the punishment of the illegal exaction of forced or compulsory labour, and in some cases for specific sanctions aimed at the trafficking in persons, the persistence of trafficking in persons tends to show that in actual practice the enforcement of the legislation is often jeopardized by difficulties which remain to be analysed and solved in order to comply with the requirements of the Convention.

81. In this light, the Committee has formulated a general observation intended to elicit information from all States bound by the Convention on measures taken or contemplated to ensure that, in practice, those responsible for the trafficking in persons can and will indeed be strictly punished, and that the trafficking in persons is really suppressed.

B. Privatization of prisons and prison labour

1 Background

82. The Committee refers to paragraphs 70 and 71 of its General Report of 1999 in which it indicated, in relation to Article 2(2)(c) of Convention No. 29, that the question of prisoners being, in the words of the Convention, "hired to or placed at the disposal of private individuals, companies or associations" merited fresh attention. In its general observation of the same year, the Committee asked governments to include in their next reports information as to the present position in law and practice as regards: whether there are prisons administered by private concerns, profit-making or otherwise; and whether any private prison contractors deploy prisoners to work either inside or outside prison premises, either for the account of the contractor or for that of another enterprise. The Committee also asked a certain number of questions concerning the conditions under which such arrangements operated, where they existed.

83. Unfortunately, the number of responses available in time for examination has not allowed the Committee to draw, at its present session, a general picture of law and practice in member States in these regards. The Committee has, however, taken note of the more general views on the subject that were expressed by a number of delegates in the discussions that took place at the 87th and 88th Sessions of the International Labour Conference (1999 and 2000) in the Committee on the Application of Standards, when it considered the observance of the Convention in certain countries, as well as the Conference Committee's general discussions of 1998 and 1999. In addition, the Committee has taken account of experience in examining the application of the Convention generally.

II. Views expressed in the Conference Committee

1. Present-day relevance of the Convention

84. It is appropriate to review the discussions in the Conference Committee as the discussion in that Committee reflects the concerns which have been expressed from many quarters about the application of the Convention to the situation of privatization of prisons. Those discussions have also led to the need for the review now undertaken by the present Committee. Certain members of the Conference Committee have questioned the relevance of the Convention to the use of prison labour by private companies on several grounds. In particular, the idea has been expressed that the privatization of prison labour was a new practice, and that a Convention adopted in 1930 could not be taken to set standards for a phenomenon that had arisen only in recent years. In addition, the restrictions imposed by the Convention were taken by some to be contrary to the economic and social interests being addressed through privatization of prison labour. Some members of the Conference Committee expressed the view that at the time of the elaboration of the Convention, the obligation for prisoners to work was considered as part of the punishment, while at present work by prisoners was seen as an important element in the process of rehabilitation.

85. The Employer members stated that development and training provided the best long-term results when tied to "real work situations", that prison labour only made sense when it involved productive work in a market context, and that in their view such productive work could only be performed with the assistance of private firms. Others considered that there was a risk that this might result in situations of exploitation under the cover of the rehabilitative function of prison labour. The Worker members stated that in a growing number of countries private companies could exploit prison labour by legally employing prisoners at wages far below the minimum wage. Convention No. 29 was a fundamental Convention which applied to all. Its importance tended to increase as systems of private prisons were developing. It was thus inappropriate to maintain that this Convention was obsolete and of relevance only in the context of old forms of slavery.

2. Requirements of Article 2, paragraph 2(c), of the Convention

86. The Worker members recalled that prison labour was excluded from the scope of the Convention when two conditions were met: that it was "carried out under the supervision and control of a public authority" and that the prisoner was not "hired to or placed at the disposal of private individuals, companies or associations". As noted by the present Committee, the two conditions applied independently and therefore the Convention provided for no exception with regard to the second condition. The prohibition was absolute and applied equally to workshops operated by private undertakings within prisons and, all the more so, to all organized work in private prisons.

87. A Government representative stated that it was clear from the preparatory work that private profit or benefit was the issue which was being addressed, and that the "farming out" to private employers had been equated with labour not carried out under government supervision; this was clearly not the situation in modern prisons, which were managed by private companies under contract to the government, in a situation in which the private companies did not stand to benefit or profit from the labour of the prisoners.

3. Meaning of "hiring to or placing at the disposal of"

88. A Government representative expressed the view that a prisoner could only be considered to be hired to or placed at the disposal of a private company in cases where the prisoner was employed by the private company, which might be either the prison operator or a third party, or where the prisoner was placed in a position of servitude in relation to the private company, but not where the performance of work was "merely one of the conditions of imprisonment imposed by the State". An Employer member stated that contractual arrangements were not comparable to what would normally be regarded as a hiring arrangement in cases where it was not the private company which was paying the public authority as providers of the prisoners' services, since the roles had been reversed. Also, prisoners should not be considered to be placed at the disposal of private companies where the companies did not have absolute discretion over the type of work that they could request the prisoner to do, but were limited by the rules set by the public authority.

4. Conditions for private employment of prisoners

89. A number of governments stressed the need for the safeguards mentioned by the present Committee when prisoners work for private employers, while other members of the Conference Committee questioned the extent to which such conditions are required by the Convention.

90. In the general discussion of 1998, the Employer members noted that work performed by prisoners for private firms in public prisons, which affected the application of Article 2(2)(c) of the Convention, could be considered to be in compliance with the Convention when it was carried out with the agreement of the prisoner concerned. In such cases, they said, normal labour law would apply. Prison labour only made sense when it involved productive work in a market context. In discussing the situation of one country in 2000, the Employer members disagreed with the view that prisoners working for private companies should be subject to the employment conditions prevailing on the free labour market, stating that the Convention was silent on this point with regard to outside prison labour. An Employer member considered that there was no need for a prisoner to have a normal employment relationship with the private company to ensure that the prisoner had given true and genuine consent. Article 2(1) only required the person to have offered himself or herself voluntarily and without threat of a penalty. She stated that, while there might be reasons to volunteer, this did not detract from the fact of voluntary consent. The objectives of a voluntary relationship could be achieved by introducing a condition preventing a private company from requiring prisoners to do the work and from imposing a penalty if they did not work. This would remove any work done within private prisons from the definition of forced or compulsory labour.

91. The Worker members stated that private prison labour was clearly prohibited under Article 2(2)(c) of the Convention. However, in an attempt to accommodate what was increasingly seen as a positive prisoner rehabilitation practice, namely the voluntary acceptance of work outside a prison by prisoners scheduled for release to ease their transition back into society, the Committee of Experts had considered that the Convention provided for circumstances under which such pre-release schemes would be consistent with Article 2(2)(c). While the Committee was regularly accused of over-interpretation, the Worker members felt that a number of Governments and Employer

members would like the Committee to expand further on this issue. In this regard, the Committee had consistently stated that work for private companies could be compatible with Article 2(2)(c) only where prisoners worked in conditions approximating a free employment relationship. This necessarily required the voluntary consent of the prisoner as well as further guarantees and safeguards covering the essential elements of an employment relationship. The Worker members asked for the creation of a legal framework for the establishment of a direct contractual employment relationship between the company and the prisoner.

5. Relevance of other international instruments

92. A Government member of the Conference Committee noted that, although Convention No. 29 was a self-contained instrument, it was applied against the background of developing international law. In the supervision of compliance with the Convention, attention should be paid to other human rights instruments dealing with the same issues in the interest of cohesive international jurisprudence. In this regard, he drew attention to the International Covenant on Civil and Political Rights and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

III. Present-day relevance of the Convention in the light of the ILO Memorandum on Prison Labour and other international instruments

93. The Committee notes that the "Standard Minimum Rules for the Treatment of Prisoners", the draft of which was adopted by the International Prison Commission (the Berne Commission) in 1929, were transmitted by a resolution of 30 December 1930 of the Eleventh Assembly of the League of Nations for examination and report to the International Labour Office, which replied by a Memorandum of 1931 "on such of the problems of prison administration as are within its competence, i.e. those relating to prison labour".[9] This memorandum throws some light on the conceptual and factual frame of reference prevailing as regards prison labour at the time the ILO adopted the Forced Labour Convention.

1. Rehabilitation: A recent concept?

94. As indicated above,[10] some members of the Conference Committee in 1999 and 2000 expressed the view that while at present work by prisoners was seen as an important element in the process of rehabilitation, at the time of the elaboration of the Convention the obligation for prisoners to work was considered as part of the punishment. However, the Committee notes that in the ILO Memorandum of 1931, the Office recalled that in the tradition of John Howard[11] and Franz von Liszt the principle

[9] The essential parts of the Memorandum were published under the title "Prison labour" in the *International Labour Review*, Vol. XXV, Nos. 3 and 4 (Mar. and Apr. 1932), pp. 311-331 and 499-524.

[10] Para. 84.

[11] Howard's view that prisoners were to be reformed, not punished, by means of work and religious instruction, expressed in "The state of prisons in England and Wales" (1777), was first

of retaliation had long been abandoned by the time of the adoption of the Convention, when the process called "rehabilitation" was "precisely the aim of modern penal systems".[12] It is also apparent from the Standard Minimum Rules for the Treatment of Prisoners drawn up under the auspices of the League of Nations in 1929[13] that this was the prevailing view at the time of the elaboration of the Forced Labour Convention.

2. The privatization of prison labour: A new phenomenon?

95. The view expressed in the recent discussions in the Conference Committee that the privatization of prison labour was a new practice and that the Convention, adopted in 1930, could not be taken to set standards for a phenomenon that had arisen only recently, calls for an examination of what existed before the Convention was adopted in 1930, and how it compares with present-day practices.

96. *Contract labour.* In its Memorandum of 1931, the International Labour Office surveyed the evolution of the various systems of prison labour and distinguished three broad groups of systems: (A) Contract Labour; (B) the Piece-Price System; and (C) the State Management System. The Memorandum described the "Contract Labour System" as follows:

> A. Contract Labour
>
> Contract labour is one of the older systems of prison labour; it still exists in some countries.
>
> The term denotes systems in which the labour of the prisoners is hired out to private contractors (private persons, companies, or associations). These systems comprise:
>
> *(a) The Lease System.* This system is based on a contract between the State and a contractor, under which the prisoners are hired out to the latter, who is often styled the lessee. His contractual obligations are the boarding, lodging, clothing, and guarding of the prisoners, and the payment of an agreed per capita rate, in return for which he acquires the right to employ the prisoners for the duration of the contract. In more recent years provision has been made in such contracts for periodic inspection by State officials.
>
> *(b) The General Contract System.* Under this system all the prisoners are hired out to a single contractor, but, in contrast to the lease system, the State supplies the buildings and the necessary equipment for housing the prisoners and guards them. For the latter purpose the State appoints and pays officials. The contractor feeds the prisoners, provides the raw material and tools, and pays the State a lump sum. In return the State hands over the prisoners' labour to the contractor.
>
> *(c) The Special Contract System.* As under the general contract system, the State supplies the buildings and the necessary equipment for housing the prisoners, but in contrast to that system the State retains the whole administration of the prisons. The prisoners, individually or in groups, are allotted to the contractor, the prison authorities selecting the prisoners in each case. The contractor supplies the raw material and tools and his agents direct the work, being admitted to the prison for this purpose. He pays for the prisoners'

given effect by an Act of Parliament of 1779 establishing two penitentiary houses; Howard was appointed commissioner of one of these penitentiaries.

[12] The Memorandum also deals with the role of private contractors in relation to the rehabilitation of prisoners – see para. 97 below.

[13] See, in particular, rule 4.

work at daily or piece rates. As in the other systems, the whole output belongs to the contractor.

97. *Economic* and *social interests (especially under the lease system).* In its Memorandum of 1931, the Office further indicated that a comparison of the three main forms of contract labour suggested the following considerations:

> The prisoner will everywhere and always be subject to more rigid subordination than is usual or even admissible with free labour. With some forms of contract labour this subordination is particularly stringent; this is especially so for the lease system, under which the enforcement of the penalty is largely left to the contractor. But the contractor is primarily concerned with the interests of his business, and it is more than doubtful whether, under the strong pressure of competition, he will be able to concern himself with the reformation of the prisoners.
>
> In most cases the contractor will have the prisoners' labour at his disposal only for a relatively short time. Since for him business interests are the primary consideration, he will use his temporary authority to make the greatest possible profit out of the prisoners in the shortest possible time.
>
> ...
>
> That it has not yet been possible to eradicate the lease system entirely, despite these drawbacks, can be accounted for as follows.
>
> The system offers considerable financial advantages to the State, which is not required to maintain institutions for the permanent custody of the prisoners, except those incapable of working. All that is needed is accommodation such as police stations, where the prisoners can be detained pending their transfer to the contractors' workplaces. Thus the supervisory staff can be reduced to the limit required by the relatively small number of prisoners not living out, so that their employment and pay do not cause the State much trouble or expenditure. The savings in building costs and staff wages under this system are therefore considerable.

98. In its Memorandum of 1931, the Office further indicates that the general contract system "is now practically a matter of history. The special contract system, on the contrary, is still common in prison labour".

99. *Aims of Convention No. 29.* The Memorandum then described "the last two main groups of systems remaining to be dealt with", namely (B) the piece-price system[14]

[14] The piece-price system is described as follows:

> Under this system the State executes orders for private contractors. The work is done by the prisoners under the direction of foremen selected, appointed, and paid by the State. The contractor supplies the raw material and sometimes the tools, which the State undertakes to keep in good repair. The contractor pays for the manufactured articles by the piece; he can refuse spoilt articles, in which case the State has to compensate him for the raw material used. Neither the contractor nor his employees come into contact with the prisoners.
>
> ... this system is hardly ever employed alone. In most countries in which it is adopted it is combined with another, usually the State management system.

and (C) the State management system,[15] and compared the provisions of Article 2(2)(c) of the Forced Labour Convention with the systems of prison labour surveyed:

> If these provisions of the forced labour Convention are compared with the foregoing survey of systems of prison labour, it will be seen that they have in view practices found in some of the systems described. This is especially true of all systems under which the prisoners are hired out to private contractors.

100. *What is new.* While the lack of a sufficient number of timely reports prevents the Committee on this occasion from providing a full analysis of specific actual practice, the Committee is able to draw on its experience over the years to indicate that, now as in 1931, practice varies widely from country to country. A paradigmatic comparison is called for between the prison labour systems involving private companies that were described in 1931, and characteristic cases of "privatization of prison labour" that are currently the subject of comments under the Convention. Thus, the description of the "special contract system" referred to in paragraph 96 above under letter (c), of which "Prussia was the main habitat" according to the 1931 ILO Memorandum, corresponds to the practice that is now followed in Germany and in Austria. As regards the "private prisons" in Australia and the United Kingdom that have been the subject of comments under the Convention which were discussed in the Conference Committee in 1999 and 2000, the practices generally correspond, save in one respect, to the "lease system" as described in 1931 and referred to in paragraph 96 above under letter (a). In particular, the private prison's obligations are the boarding, lodging, clothing and guarding of the prisoner, in return for which it acquires the right to employ the prisoner; also, provision is made for periodic inspection by state officials. The one difference is that then the private contractor had to pay an agreed per capita rate to the State while now it is often the State which subsidizes the private contractors at an agreed per capita rate, it being understood that the private contractors, local subsidiaries of fast-expanding multinational corporations which are listed on the stock exchange, are not making a profit out of this business. Whether this one change is sufficient to remove the system from the scope of the Convention will be considered in paragraphs 123 et seq. below.

101. In summary on this point, it is apparent that the "privatization of prison labour" is not a new phenomenon but is a rather old one which was known and described in some detail at the time of the adoption of the Convention.

3. Relevance of other international instruments

102. In its Memorandum of 1931, the International Labour Office noted that "... in any subsequent proposals for international regulations on the treatment of prisoners, due regard must be paid to the relevant provisions of the draft Convention on forced or

[15] The State management system is described as follows:

> The remaining system of prison labour, the State management system, has developed from modest beginnings into the most promising and most widely approved of all.
>
> Here the State provides the raw material and tools, and has the work done under its own supervisors. It may employ the product for its own purposes (State use system), or sell it for general consumption (public account system).
>
> The State use system of prison labour is the one least disturbing to the free labour market ...

compulsory labour". At the Conference Committee in 1999 and 2000, attention was drawn to the International Covenant on Civil and Political Rights and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The Covenant does not address the role of private contractors with regard to prison labour. Neither did the first Standard Minimum Rules for the Treatment of Prisoners, published by the League of Nations in 1930,[16] while the latest version[17] provides in rule 73(1) that:

> Preferably institutional industries and farms should be operated directly by the administration and not by private contractors.

This expressed preference for public administration makes no reference to the conditions and circumstances of operation but is clearly less categorical than Article 2(2)(c) of the Forced Labour Convention. Nevertheless, the latest Standard Minimum Rules "paid due regard" to the Convention and, in the view of the Committee, "the interest of cohesive international jurisprudence" does not call for a reduction of the protection given under the Forced Labour Convention.

IV. Requirements of Article 2, paragraph 2(c), of the Convention

1. General discussion

103. The starting point of any analysis of the situation of prisoners performing labour during the term of imprisonment in the context of the Forced Labour Convention, 1930 (No. 29), must begin with Article 1, paragraph 1, which requires each Member to "... suppress the use of forced or compulsory labour in all its forms".

104. Article 2, paragraph 1, then defines "forced or compulsory labour" as meaning:

> ... all service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

105. In respect of Article 2, paragraph 1, it has previously been noted by this Committee in its General Survey conducted in 1979[18] that the "penalty" referred to need not be in the form of penal sanctions but might take the form also of the loss of rights or privileges.[19]

106. These two Articles therefore require complete suppression of all labour unless it is offered voluntarily and is not exacted under threat of any penalty or loss of rights or privileges. This rule is broad and unqualified in its application. To state the requirement in another way, labour which is given voluntarily in circumstances in which there is no threat of penalties or loss of rights or privileges does not offend the Convention.

[16] Series League of Nations Publications IV. Social, 1930, IV, 10.

[17] Approved by the Economic and Social Council by its resolutions 663C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977: UN Doc. E/5988 (1977).

[18] ILC, 65th Session, 1979, Report III (Part 4B), General Survey of the reports relating to the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), para. 21.

[19] ILC, 14th Session, Geneva, 1930, *Record of Proceedings*, p. 691.

107. The Convention however continues in Article 2, paragraph 2, to specifically exempt five particular forms of service by deeming that the specified forms shall not be included as "forced or compulsory labour". Those exemptions are work or service exacted in situations of "compulsory military service",[20] "normal civic obligations",[21] emergencies,[22] minor communal services[23] and the subject of discussion in this observation, service exacted from convicted person.[24]

108. These exemptions only apply if work or service is exacted by force or compulsion. The exemptions assume in each case that work or service is exacted forcibly. The common theme of each of the exemptions is that they each involve compulsory service in areas of broad application[25] and there is a distinctive flavour of assumed general civic benefit from such service. This latter notion is reinforced by the content of Article 4.[26] Absent such exemption, each would otherwise be caught by the definition and the performance of such work or service would offend the Convention. That is not to say that there may not be either publicly spirited, conscientious or motivated citizens who may gladly and voluntarily provide services of the kind referred to in the exemptions. The concern of the exemptions is not with those individuals but with a system by which service or work is compulsorily required of persons in the situations described, whether they wish to do it or not. The Convention deems these forms of compulsory service not to be forced or compulsory labour so long as the service or work complies with the requirements described in the Convention.

109. Reasons for the exemption of prison labour were that imprisonment was historically associated with compulsory labour of various types required to be performed by prisoners initially on a punitive and retributive basis then later as a form of rehabilitation as described in the ILO Memorandum.[27] The compulsory form of its exaction was succinctly stated in the ILO Memorandum:

> Except in a few rare cases the prisoner works under compulsion. He cannot choose his employment as the free worker does, but must usually do whatever work is assigned to him. The conditions in which this work is carried out are fixed by unilateral decision of the State; the prisoner has no voice in the matter and cannot as a rule appeal to the courts if he is the victim of injustice.[28]

[20] Article 2, para. 2(a), of the Convention.

[21] Article 2, para. 2(b), of the Convention.

[22] Article 2, para. 2(d), of the Convention.

[23] Article 2, para. 2(e), of the Convention.

[24] Article 2, para. 2(c), of the Convention.

[25] The named exemptions all relate to work or service exacted from the general or particular sectors of the community and cover large numbers of persons.

[26] Recognizing that Article 4 is one of the Articles relevant to the transitional period. See discussion in *Forced labour in Myanmar (Burma)*. Report of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO, *Official Bulletin*, Vol. LXXXI, 1998, at paras. 214-218.

[27] See the ILO Memorandum on Prison Labour, *International Labour Review*, Vol. XXV, 1932, pp. 313-314.

[28] ibid., p. 499.

110. It is significant that this statement is prefaced by the words "Except in a few rare cases the prisoner works under compulsion." This recognizes that not all labour which may be performed by prisoners is exacted under compulsion, a matter which is discussed in greater depth at paragraphs 128 et seq. below.

111. The benefits of exempting prison labour under the Convention were in the interests of society in general. This interest may be direct, when the labour of prisoners is deployed on public activities such as the construction and maintenance of prisons, roads, public parks and other public works.[29] In addition there were indirect societal benefits as well as personal benefits to prisoners themselves as described in the ILO Memorandum in the following terms:

> The best method of maintaining a prisoner's working capacity is to employ him on useful work. The idea that work for prisoners is in all circumstances an evil is a survival from the days when the object of the sentence was to extirpate the criminal from society. Not until it is understood that work is a beneficial distraction for the prisoner will the right to work be recognized. The recognition of this right is an urgent social necessity.[30]

112. The particular circumstances of the exemption specified that it was on the proviso that:

> ... the said work or service is carried out under the supervision and control of a public authority and that the person is not hired to or placed at the disposal of private individuals, companies or associations.

It is the interpretation of these words in the context of the Convention that requires guidance and clarification, in particular where private entities are involved with the exaction of prisoner labour as organizers, supervisors or beneficiaries of the product.

113. There is little difficulty with the interpretation of the Convention in respect of the performance of prison labour where there is no connection with private enterprise and it is totally performed within or outside prisons operated solely by a public authority and under the sole control and supervision of the public authority, for instance on public works. Prison labour in those circumstances is exempted and prisoners may be compelled to perform all types of labour from the functions needed to run the prisons,[31] labour in the workshops which may be sold to market by the public authority, through to public works, and there is no requirement in the Convention for the prisoners to give their consent or be paid for their labour in these circumstances.

114. Different considerations apply where the prison is not run, controlled or supervised solely by a public authority but instead these functions are performed in some way by private entities. The reason for the difference in consideration is because forced or compulsory labour has never been allowed to be imposed or permitted to be exacted for the benefit of private entities, even in circumstances where the prison labour was hired to private undertakings in the execution of public works.[32] It is at the heart of all

[29] ibid., p. 324.

[30] ibid., p. 503.

[31] Such as cooking, cleaning, laundering, gardening, constructing and maintaining the prisons.

[32] General Survey of 1979 on the abolition of forced labour, para. 97; and *Record of Proceedings*, International Labour Conference, 14th Session, Geneva, 1930, pp. 305-308.

the exemptions that if forced labour is exacted then the beneficiaries should not be private entities but the public as described above. Private entities, whether they be individuals, companies or associations, are by their very nature concerned with their business interests. As the ILO Memorandum expressed the dilemma:

> ... the contractor and his staff come between the prison authorities and the prisoner. The prisoner is thus exposed to two influences: the reformative aims of the State and the business interests of the contractor. Their incompatibility seriously jeopardizes the reformative side of the prison system.[33]

115. It is therefore necessary in each case to look at the precise circumstances of the involvement of the private entities with these functions and the exaction of prison labour, in order to ascertain whether the Convention and the particulars of the exemption are fulfilled.

2. Prison labour and private entities

116. There are many circumstances in which prison labour may be connected with private entities. They include:

(a) Prisoners working with a private entity as part of an education or training scheme to obtain qualifications.

(b) Prisoners may work in workshops within the prison to produce goods which are sold to private entities in the open market. This sale may be achieved direct by the prisoners or through the agency of another private entity which may be the same entity which runs the prison. This may or may not be part of a pre-release scheme.

(c) Prisoners may work outside prison for a private entity as part of a pre-release scheme.

(d) Prisoners may provide labour within prisons which contribute to the running of prisons run by private entities.

There can also be combinations and variations of these arrangements made between public authorities and private entities and which include prison labour. They may involve triangular relationships between public authorities, private entities and prisoner as have previously been referred to by the Committee,[34] joint ventures or a series of other arrangements.

117. With regard to example (a), in the 1979 General Survey the Committee distinguished education and training schemes from the provision of "work or service".[35] However, as vocational training usually entails a certain amount of practical work, the distinction between training and employment is not always easy to draw. It is by reference to the various elements involved in the general context of a particular scheme

[33] This statement was made in the context of considering the general contract system in which the State controlled the workplace but is apposite in describing the dilemma which private entities create. See ILO Memorandum on Prison Labour, *International Labour Review*, Vol. XXV, 1932, p. 321.

[34] ILC, 86th Session, 1998 Report III (Part 1A), General Report, para. 118; ILC, 83rd Session, 1996, Report III, observation concerning France, pp. 81-82.

[35] General Survey of 1979 on the abolition of forced labour, para. 20.

of training that one may determine whether it is unequivocally one of vocational training or on the contrary involves the exaction of work or service within the definition of forced or compulsory labour.[16] Examples (b), (c) and (d) require particular considerations to be addressed as discussed hereafter.

118. Three particular questions were raised in the recent Conference Committee discussions:[17] (1) the cumulative or interchangeable nature of the conditions set out in the proviso to Article 2(2)(c) of the Convention for any work or service exacted as a consequence of a conviction in a court of law (the requirement of supervision and control by a public authority and the prohibition of hiring to, or placing at the disposal of, private individuals, etc.); (2) the meaning of the terms "hired to or placed at the disposal of ..."; and, linked to the preceding, (3) the role of private profit or benefit. These questions will now be examined in the light of the preparatory work of the Convention and the ILO Memorandum on Prison Labour.

3. Conditions regarding public authorities and private entities: Cumulative or interchangeable?

119. Under Article 2(2)(c) of the Convention, work or service exacted from any person as a consequence of a conviction in a court of law is excluded from the scope of the Convention if two conditions are met, namely:

> ... that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations.

This Committee has always made it clear that the two conditions are cumulative and apply independently; i.e. the fact that the prisoner remains at all times under the supervision and control of a public authority does not in itself dispense the government from fulfilling the second condition, namely that the person is not hired to or placed at the disposal of private individuals, companies or associations. The opposite also applies, of course.

120. In the 1999 Conference discussion, a Government member considered that it was clear from the preparatory work that the "farming out" to private employers had been equated with labour not carried out under government supervision. This view is not borne out by the preparatory work. In the discussion of Article 2 of the proposed Convention in the Committee on Forced Labour at the 14th Session of the International Labour Conference,[18] the South African Government delegate proposed an amendment to clause (c), to omit the words "and that the said person is not hired to private individuals". He explained that:

> ... it was impracticable, in view of the long distances in South Africa, to transfer short-term prisoners to places where their labour could be used on Government work. In such cases private persons were allowed to apply for the use of prisoners' labour, but the prisoners were under the immediate supervision of a prison official from the time of leaving the prison each morning till the conclusion of their day's work. Moreover, the prisons were visited by the

[16] ibid.

[17] See paras. 86 to 88 above.

[18] See the minutes of the Sixth Session of the Committee on Forced Labour, 16 June 1930, 3.35 p.m. – PV.6.

local justices twice in each week, so that any complaints which might be made by the prisoners might be investigated. There were no such complaints and the speaker could not see any objection to the system. His Government had no intention of farming out prison labour.

The amendment was supported by the United Kingdom Government delegate; in view, inter alia, of the inclusion in the clause already of the words "under the supervision and control of a public authority", he felt that the words proposed to be omitted were unnecessary. The Netherlands Workers' delegate however considered that the South African case was definitely within the scope of the paragraph, and that "for humanitarian reasons it was impossible to allow the prisoners to be placed at the disposal of a private employer against his will". The amendment was defeated by 23 votes to 15.[37]

4 Meaning of the terms "hired to or placed at the disposal of"

121. Questions have been raised on several occasions, including at the Conference Committee in 1999 and 2000, concerning the scope of the term "hired to or placed at the disposal of".[38] Some have expressed the view that a prisoner could only be considered to be hired to or placed at the disposal of a private company in cases in which the prisoner was (a) "employed" by the private company or (b) placed in a position of servitude in relation to the private company, but not (c) where the companies did not have absolute discretion over the type of work they could request the prisoner to do but were limited by the rules set by the public authority, and where the performance of work was "merely one of the conditions of imprisonment imposed by the State".

122. The normal meaning of the term "hired to" as understood at the time of the adoption of the Convention can be seen in the Office Memorandum description of the lease system, the general contract system and the special contract system, quoted in paragraph 96 above. In all of these cases, prisoners are neither (a) "employed" by the private company in the sense of having an employment contract, nor (b) placed in a position where the companies have absolute discretion over the type of work they can request the prisoner to do, since they are (c) limited by rules set by the public authority, and as far as the prisoners are concerned, their obligation to work is "merely one of the conditions of imprisonment imposed by the State". Thus such situations are not removed from the normal scope of the term "hired to".

123. At the Conference Committee in 2000, an Employer member furthermore indicated that cases where it was not the private company which was paying the public authority as provider of the prisoners' services were not comparable to what would normally be regarded as hiring arrangements. It appears to this Committee that arrangements where the private company is not paying the public authority as provider of the prisoners' services, but is on the contrary being subsidized by the State for the running of a private prison, indeed differ from what would normally be considered as hiring (or lease) arrangements. However, Article 2(2)(c) of the Convention refers both to cases where prisoners are "hired to", and to those where they are "placed at the disposal" of private contractors. The preparatory work shows that after the rejection of the

[37] The words thus retained were subsequently expanded "to strengthen the clause" – see para. 125 below.

[38] See para. 88 above.

proposed amendment tending to suppress the words "hired to private individuals",[41] the words "or placed at the disposal of" were added by a large majority following a proposal of the Workers' group "intended to strengthen the clause".[42] Since the position of a person placed by the State with the obligation to work in a prison run by a private contractor is not affected by the question whether the contractor pays the State or the State subsidizes the contractor, it may be concluded for the purposes of the Convention that where in the first case the prisoner is "hired to" the private contractor, in the second he or she is "placed at the disposal of" the latter.

5. Role of private profit or benefit

124. The question of the direction in which payments flow between the State and private contractors leads to the issue of profit or benefit. In discussing the requirements of Article 2(2)(c) of the Convention in the Conference Committee in 1999, a Government representative stated that it was clear from the preparatory work that private profit or benefit was the issue which was being addressed, while in modern prisons which were managed by private companies under contract to the government the companies did not stand to benefit or profit from the labour of the prisoners.

125. In fact, the Convention refers nowhere to "profit" in the sense of a balance sheet result. Article 4 of the Convention prohibits authorities from imposing, or permitting the imposition of, forced or compulsory labour "for the benefit of" private individuals, companies or associations. Although this Article is relevant to the transitional period, it nonetheless reflects a consistent concern about the nature of the connection between private entities and forced labour and provides contextual assistance to the interpretation of Article 2(2)(c). Likewise the wording of Article 2(2)(c) assists with the interpretation of Article 4. The words "for the benefit of" private entities in Article 4 would include the notion of being "hired to, or placed at the disposal of" private entities as expressed in Article 2(2)(c) and neither wording suggests that the absence of balance sheet profit would negate the applicability of the Articles to particular private entities. In this connection, it is important to note from the preparatory work that the amendment which introduced to Article 2(2)(c) the words "or placed at the disposal of", following a proposal of the Workers' group "intended to strengthen the clause",[43] also added the words "companies or other entities". The words "other entities", subsequently replaced by "associations", would also cover non-profit-making associations.

126. In present-day practice entities running private prisons are not charitable associations but commercial companies, which frequently are listed on the stock exchange. In the actual case giving rise to the statement referred to in paragraph 124 above, the purported absence of profit results from an agreement between the government and each private prison operator, requiring the operator to ensure that all income from prison industries be isolated within the overall income of the operator, and that any profit from the industries be reinvested in the industry or spent in such other

[41] See above para. 120.

[42] See 14th Session of the ILC (1930), minutes of the Sixth Session of the Committee on Forced Labour, 16 June 1930, 3.35 p.m. – PV.6.

[43] See para. 123 above.

manner as approved by the government. The Committee pointed out in this respect that the way in which the surplus income derived by the prison operator can be distributed has no bearing on the need to comply with the second condition laid down in Article 2, paragraph (2)(c), of the Convention, namely, that the person is not "hired to or placed at the disposal of private individuals, companies or associations".[44]

127. The contrary view has no basis in the Convention and would lead to an absurd distinction between the "less privatized" special contract system[45] and fully privatized prisons. While the former is incompatible with Article 2(2)(c) since it provides for the "hiring" of prison labour as long as the operators of private workshops within state prisons pay the State for the use of the prisoners' compulsory labour on a basis that is viable for the company, a scheme where the prisoner is compelled to work in a totally private prison would escape the scope of the Convention on account of bookkeeping arrangements and investment decisions which have no bearing on the situation of the prisoner.

V. Voluntariness and conditions for private employment of prisoners

1. Freely given consent

128. A primary concern is whether prisoners can ever be in a situation in which it could be said that their labour is truly voluntary because of their captive circumstances. As referred to in paragraph 110 hereof, the ILO Memorandum recognized that voluntary prison labour was possible. The Committee also acknowledged in the 1979 General Survey that prison labour may not always be compulsory:

> The Convention does not of course prevent work from being made available to such prisoners at their own request, to be performed on a purely voluntary basis.[46]

129. If in privately run prisons the prisoners were given a genuine option to either perform or not perform work with no penalty or loss of rights or privileges if they refused, then there is no need to consider the exemption. This voluntariness however is not easy to achieve as the option to perform work must be a true option and not one in which the alternative to the provision of work is a detriment, for example remaining confined in their cells for unreasonably long periods, having no alternative to boredom, or being disadvantaged in any early release programme because of failure to undertake work.

130. With regard to the last example, the Committee has previously considered the case where the law makes prison labour voluntary but also provides that employment activities are taken into account in assessing a convict's good behaviour, which is a criterion for reduction of sentence. The Committee requested that the government concerned indicate the measures taken to ensure that the prisoner's consent cannot be vitiated by the fact that a favourable assessment implies assiduousness at work. The Committee observed that in private prisons there are two interrelated forms of constraint:

[44] ILC, 87th Session, 1999, Report III (Part 1A), pp. 108-109.

[45] See para. 96 above, letter (c).

[46] General Survey of 1979 on the abolition of forced labour, para. 90.

first, the private enterprise operating a prison includes prison labour in its profit calculations and, second, the private enterprise is not only a user of prison labour, but also exercises, in law or in practice, an important part of the authority which belongs to the prison administration. Furthermore, prison labour is captive labour in the full sense of the term, namely, it has no access in law and in practice to employment other than under the conditions set unilaterally by the prison administration. The Committee therefore concluded that in the absence of an employment contract and outside the scope of the labour law, it seems difficult or even impossible, particularly in the prison context, to reconstitute the conditions of a free working relationship.[47]

131. If the system under which private prisons are run offers prisoners true options so that they can consent to perform work or reject it without penalty as described; if there are assurances that there is no penalty as described for refusal to work at all levels, such as by the public authority, the private entity, any parole board and also within the prison itself; and if the prisoners formally consent to the performance of labour, then one vital aspect of the indicia of voluntariness would be satisfied.

132. In assessing whether prison labour in a privatized prison is voluntary, a number of indicia may be considered. They include the formal consent of the prisoner and its terms in the circumstances referred to above. However, the most reliable and overt indicator of voluntariness can be gleaned from the circumstances and conditions under which the labour is performed and whether those conditions approximate a free employment relationship.

2. Conditions approximating a free employment relationship

133. In the 1979 General Survey in the context of discussing prisoner pre-release schemes, the Committee noted that prisoners sometimes accepted employment with private employers subject to guarantees as to payment of normal wages and social security. The Committee also added:

> The Committee has considered that, provided the necessary safeguards exist to ensure that the persons concerned offer themselves voluntarily without being subjected to pressure or the menace of any penalty, such employment does not fall within the scope of the Convention.[48]

134. A similar sentiment was expressed by the Committee in respect of work performed in workshops operated by private undertakings inside prisons. The Committee stated:

> Accordingly, the use of the labour of convicted persons in such workshops would be compatible with the Convention only if it were subject to the consent of the prisoners concerned and to safeguards of the kind mentioned above.[49]

135. These issues of voluntariness and conditions approximating a free employment relationship only become relevant when private entities are involved with

[47] ILC, 83rd Session, 1996, Report III (Part 4A), pp. 80-82.

[48] General Survey of 1979 on the abolition of forced labour, para. 97. (See also Report of the Committee of Experts, 1955, p. 43; General Survey, 1968, para. 79; Report of the Committee of Experts, 1974, pp. 68-69.)

[49] ibid., para. 98.

the performance of prison labour. The safeguards are apposite and essential because private entities necessarily have business goals and/or profit margins to attain which may not necessarily be compatible with the purpose of performance of prison labour. As the Committee observed in its General Survey in 1979 in the context of considering the requirements that prisoners must be convicted in a court of law and not be placed at the disposal of private interests:

> Both are important guarantees against the administration of the penal system being diverted from its true course by coming to be considered as a means of meeting labour requirements.[50]

136. As noted above,[51] at the Conference Committee in 2000 an Employer member considered that there was no need for a prisoner to have a normal employment relationship with the private company to ensure that the prisoner had given true and genuine consent. Article 2(1) only required the person to have offered himself voluntarily and without threat of a penalty. She pointed out that while there might be many reasons to volunteer, this did not detract from the fact of voluntary consent. The objectives of a voluntary relationship could be achieved by introducing a condition preventing a private company from requiring prisoners to do the work and from imposing a penalty if they did not work. This, in the member's view would remove any work done within private prisons from the definition of forced or compulsory labour.

137. For the reasons set out in paragraphs 129 to 134 here and in view of the particular constraints to which the free will of prisoners remains subjected, the Committee has always emphasized the close connection between "conditions approximating a free employment relationship" and the requirement of consent founded on Article 2(2)(c) of the Convention.[52] The Committee also recalls the statements made by the Employer members in the general discussion in the Conference Committee in 1998[53] that development and training provided the best long-term results when tied to "real work situations", that prison labour only made sense when it involved productive labour in a market context, and that in such cases normal labour law would apply.

138. Also as referred to above,[54] in 1998 the Employer members at the Conference Committee expressed the view that work performed by prisoners for private firms could be considered in compliance with the Convention if carried out with the agreement of the prisoner, that in such cases "normal" labour law would apply, and that prison labour made sense only when it involved productive work in a market context. In 2000, they disagreed with the view that prisoners working for private companies should be subject to the employment conditions prevailing on the free labour market, stating that the Convention was silent on this point "with regard to outside prison labour".

139. In considering these views, in addition to the matters referred to in paragraphs 129 to 137 above, this Committee notes that the Convention contains a series

[50] ibid., para. 35.

[51] See para. 90.

[52] ILC, 86th Session, 1998, Report III (Part 1A), General Report, para. 125.

[53] See paras. 85 and 90 above and ILC, 86th Session, Geneva, 1998, Part One: General Report, paras. 93 and 98.

[54] See para. 90 above.

of provisions requiring that persons subjected to forced or compulsory labour that could be tolerated under Article 1(2) during a transitional period after its coming into force, shall benefit from the conditions prevailing on the free labour market with regard to conditions of employment such as remuneration and accident and sickness insurance.[55] This Committee has previously considered that these requirements laid down for the use of compulsory labour that could be tolerated during a transitional period, should apply no less with regard to the compensation for compulsory labour falling within the absolute prohibitions contained in the Convention.

140. The difficult question which arises is how closely conditions are required to approximate a free labour relationship. If "normal" labour law were to apply, this might imply that *all* conditions of work, including wages, social security, safety and health and labour inspection comparable to those prevailing on the free labour market would be required. This leaves aside those principles which the ILO considers to be fundamental to all workers – protection from discrimination and child labour as well as freedom of association and collective bargaining. In practice prisoners have usually been excluded from all the attributes of normal labour protections which operate in the free labour market, whether working exclusively for the public authority or engaged in productive work with private entities in one of the various schemes now in force around the world. These schemes range from agriculture and stock-breeding through textile manufacture to high-tech sectors such as the production of computer parts and qualified services such as the operation of airline booking systems.

141. Exclusions from attributes of free employment are sometimes said to be justified on the basis that there is lower productivity of prison labour; or that because they do not in fact receive wages and benefits like other workers, they carry out work at much lower cost which would otherwise not be economically feasible. It cannot be simply taken for granted, however, that the productivity of a captive labour force is always significantly lower than that of free labour, or even so low as to justify conditions of work, wages and other protections at a far lower level than those available to free workers, such that they could be considered to be exploitative.

142. In considering how closely the conditions should resemble a free labour relationship, it needs to be remembered that in the free labour market, wages may, in the words of Articles 8 and 10 of the Protection of Wages Convention, 1949 (No. 95), be subject to deductions and "be attached or assigned" under conditions and within limits prescribed by national laws or regulations; in conformity with Article 10, paragraph 2, of that Convention, they are in many countries "protected against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family". For prisoners employed by private enterprises, or who are assigned to work for them, this implies that their wages also may "be attached or assigned", so as to satisfy compensation claims of victims as well as alimony or other obligations of the prisoners, both of which would be illusory if exploitative wage rates prevailed. Deductions may also be made from prisoners' remuneration for the board and lodging provided or their remuneration lowered to take account of these expenses.

143. In summary on this aspect, the Committee affirms its earlier conclusion that conditions approximating a free labour relationship are the most reliable indicator of the

[55] Articles 14 and 15 of the Convention.

voluntariness of labour. Such conditions would not have to emulate all of the conditions which are applicable to a free market but in the areas of wages, social security, safety and health and labour inspection, the circumstances in which the prison labour is performed should not be so disproportionately lower than the free market that it could be characterized as exploitative. These factors will need to be weighed together with the circumstances under which formal consent has been given in order to ascertain whether the Convention is being respected when private entities are involved with prison labour.

VI. Concluding remarks

144. The Committee is fully aware that there is a trend in some countries towards increased use of privatized prison labour, often based on a perceived need for the governments to generate income to cover the costs of a growing prison population, or in a sincere attempt to provide skills for the purposes of rehabilitation, or even to provide sources of income for prisoners from which family expenses of prisoners or restitution for victims can be drawn. As outlined above, the general context in which this is taking place may not be exactly the same as that in the late 1920s when Convention No. 29 was drafted, but it does share many of the characteristics of that time. It cannot be said the drafters did not take account of well-developed systems of privatized prison labour when drawing up that instrument.

145. It is fully possible for countries to apply Convention No. 29 when designing or implementing a system of privatized labour, but they must do so on the understanding that such involvement carries with it additional requirements and the need for a thorough analysis. There is the need to protect a captive workforce who are increasingly working in direct competition with a free labour market, and of the need to avoid unfair competition with free workers. Clearly, the fact that they have been convicted of crimes does not mean that prisoners should not have rights otherwise available to citizens, even less so when they are employed in productive work for private employers. Issues of voluntariness, including consent and conditions which approximate free labour, will continue to be matters which require careful consideration by States in attempting to reconcile the different imperatives in their own particular context. It will also be a concern for this Committee in examining how the Convention is being applied in such situations.

146. Freedom from the imposition of forced or compulsory labour, as provided for in Convention No. 29 is a fundamental principle of the ILO. It is a standard which, if compromised, would weaken or negate other core Conventions of the Organization. It was therefore appropriate for the Committee to set out the foregoing analysis of the provisions of the Convention as it relates to the work of prisoners. The Committee has done so by referring to contemporaneous international instruments and in particular to the Office's own Memorandum of 1931 on the problems of prison administration which fell within its competence. This historical perspective is useful because although some of the forms of prison labour may have changed over the years, the basic problems raised by the involvement of private contractors in prison labour have had to be dealt with since the adoption of the Convention. What is set out here is a clear statement of the Convention's provisions, including its exemptions and prohibitions. The Committee's role in supervising the application of the Convention is ongoing and when new factual situations arise the Committee will examine them. The foregoing indications should

provide a useful guide as to how the Convention should be applied, for the benefit of those member States which have ratified the Convention, and for those which are contemplating doing so.

Application of the Employment Policy Convention, 1964 (No. 122)

147. The Committee has an ongoing dialogue with all countries that have ratified the Convention. It regrets, however, that the large majority of reports were received too late to be treated this year. As explained last year, the Committee's observations on Convention No. 122 will focus on showing what various governments are doing which may be of interest to others, such as addressing important issues which are rarely examined, or implementing innovative policies, programmes or methodologies. Observations also will be made in cases where the government has either made exceptional progress or demonstrated repeatedly a lack of commitment to employment promotion.

148. The Committee thanks the Employment Strategy Department, in particular the employment specialists of the multidisciplinary advisory teams, for their high quality contribution in analysing the reports this year. It hopes that the Office will continue its efforts to develop such cross-sectoral analysis and synergies, including an increase in the number of reports analysed in this way, and incorporating priority international labour standards into technical assistance on employment promotion.

149. In light of the discussion on the future of social security to take place during the International Labour Conference in 2001, the Committee emphasizes the importance of an integrated approach to social protection and employment promotion. The Committee recognizes that no employment policy can ensure full employment at all times. Those hardest hit by volatility in financial, commodity, and other markets generally are those least able to influence the outcome and bear the consequences. Thus, as the Committee stressed in its comments last year, adequate safety nets fulfil a vital social function.

150. On a more practical level, the Committee notes that a synergistic approach produces more effective policies. Social protection, which aims to ensure some continuity of income, has the important economic role of minimizing fluctuations in consumer demand. For instance, benefits paid out help sustain domestic demand to reduce employment loss during recessions. Equally important, social safety nets help prevent large numbers of people from slipping into dire poverty. Active poverty prevention strategies are crucial for promoting employment because, as a growing body of research clearly shows, they enable people to acquire and maintain the marketable basic skills they must possess to be employable.

151. Although the social and economic interrelationship between employment and social protection is not in doubt, it is not yet common to see this awareness put into practice. The Committee notes that so far only six countries have ratified the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168). Furthermore, reports submitted by member States which have ratified Convention No. 122 rarely supply information on cooperation between the ministries responsible for labour and social security to develop an integrated approach to employment promotion and social safety nets. The exceptions for the most part reflect the recent trend to condition unemployment insurance benefits or assistance on

participation in an active labour market programme. Even when one ministry combines the two objectives it is not always apparent how social protection and employment are coordinated.

152. The Committee is encouraged that an increasing number of governments appear to be making an effort to ensure effective cooperation. Numerous countries have focused on the link between promotion of entrepreneurship and innovative forms of social safety nets, most commonly by extending basic social protections to the self-employed and helping to subsidize coverage of workers in micro- and small enterprises. Other countries have gone farther, by allowing unemployment benefits to be converted into a lump sum to start a micro-enterprise, and providing technical support for running a business and the possibility to receive unemployment assistance later on if the enterprise fails. Jobseekers in some countries may now register for unemployment benefits or assistance, receive placement counselling or training, and search for a job all in the same "one-stop-shop". A growing number of countries, particularly in Europe, now allow persons with disabilities and older workers with reduced working capacity to work part-time without loss of disability benefits. More generally, many countries have gradually reduced or eliminated the steep marginal tax rates (in terms of loss of benefits) which often act as a disincentive to employment. The Committee encourages member States to consider similar creative measures to strengthen the relationship between employment and social protection, and to report on such measures under Convention No. 122.

Application of Conventions on social security

153. The Committee notes that, following the recommendations of the Working Party on Policy regarding the Revision of Standards of the Committee on Legal Issues and International Labour Standards, the Governing Body of the ILO has decided to concentrate efforts on promoting the ratification of the following up-to-date social security Conventions:

- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Equality of Treatment (Social Security) Convention, 1962 (No. 118);
- Employment Injury Benefits Convention, 1964 (No. 121) [Schedule I amended 1980];
- Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128);
- Medical Care and Sickness Benefits Convention, 1969 (No. 130);
- Maintenance of Social Security Rights Convention, 1982 (No. 157);
- Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

154. These Conventions form a compact body of instruments establishing both minimum and higher standards for the nine principal social security branches (medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit). They were developed in the second half of the twentieth century as a normative framework held together by a unique set of common aims and principles underpinning the social security system. This *integrity* of international social security law is an invaluable

achievement to be preserved and consolidated in the ILO's future standard-setting activities in the field of social security.

155. International labour standards on social security help materialize the aspirations set forth in the Universal Declaration of Human Rights that the fundamental human right to social security be protected by the rule of law. They are aimed at providing the broadest possible protection in terms of personal coverage, risk coverage and adequate level of compensation. They aim to strengthen social cohesion by promoting solidarity between active and non-active members of society, between rich and poor and between present and future generations. Strengthening people's security through greater social solidarity means basing social security systems on such organizational principles as risk-pooling and collective financing by the members of the community, and guaranteeing a minimum level of protection sufficient to maintain the family of the beneficiary in health and decency. These organizational principles must be complemented by the no less fundamental principles of governance: the system shall be supervised by the public authorities or administered jointly by employers and workers whose contributions represent the largest share of social security revenues; representatives of the persons protected, which include social groups outside wage employment, shall participate in management if the administration is not entrusted to a public institution; and the State must accept general responsibility for the due provision of benefits and for the proper administration of the institutions and services concerned.

156. It is often alleged that ILO Conventions are excessively rigid. Attachment to principles, however, does not mean rigidity and inflexibility. On the contrary, it is unity in principle and purpose that permits greater diversity in detail and means of implementation. Viewed in this light, international social security Conventions offer perhaps the largest set of options and flexibility clauses allowing for the goal of universal coverage to be attained gradually and in step with economic development. Each country is offered the possibility of implementing them by combining contributory and non-contributory benefits, different methods of computing benefits, general and occupational schemes, compulsory and voluntary insurance, public and private tiers into the mix of protective measures best suited to its needs.

157. By making it possible to achieve the same objectives of social security by a variety of methods, ILO Conventions leave sufficient room to accommodate in part the redistribution of risks and responsibilities between the State and the principal economic players which characterizes current social security reforms in many parts of the world. The new social security mix now emerging, in which the share of responsibility relinquished by the State is taken up by private insurers, enterprises or the insured themselves, is not necessarily at odds with the social security model established by ILO standards. However, it might mask the danger of excluding public authorities and the insured from participating in the administration or management of private insurance schemes and exposing their members to greater financial risks without sufficient guarantee from the State of the due provision of benefits. Concerned at the direction the reform process was taking in certain countries, the Committee in 1997 considered itself "bound to draw the Government's attention to the need to safeguard, in the process of

reform, these basic principles of organization and management which should continue to underlie the structure of the social security systems".[56]

158. In 2000, it is apparent that the process of reforming social security systems will continue well into the new century and remain a social and political issue of first order in many countries. However, in contrast to the previous decade, future changes in social security systems will be guided more and more by a coherent, long-term and internationally coordinated policy of social reform. This policy has emerged from the wealth of experience gained in adjusting social security schemes to the conditions of economic depression at the beginning of the 1990s and to the economic growth of the end of the decade. If ever a lesson has to be learnt from this decade, it is that the way out of depression to a sustainable growth and development passes through multiplying investments in the social capital of a nation. Many countries have indeed experimented with a wide variety of social security schemes managed by private, independent or communal authorities, and now have the most complex and diverse set of instruments to offer bodies responsible for taking political decisions as to the future development of social protection. What such bodies and those who await their decisions need most in the near future is an *inspired vision of a social security system for the twenty-first century*. The Committee recalls that, in asking the International Labour Conference to hold in 2001 a general discussion on the future of social security, the Governing Body hoped that it "could be called upon to establish an ILO vision of social security that, while continuing to be rooted in the basic principles that constitute the foundation of the ILO, would be responsive to the new issues and challenges facing social security".[57] The Committee considers the elaboration of such a vision to be the primary challenge for the Organization's future work in the area of social security, bearing in mind that its "best guarantee of credibility lies in the effectiveness of the ILO's normative activities and the integrity of its supervisory and control machinery".[58]

Application of Conventions on child labour

159. The Committee recalls that last year it noted with great interest the adoption by the International Labour Conference of the Worst Forms of Child Labour Convention (No. 182) and Recommendation No. 190. The Convention entered into force on 19 November 2000. The Committee welcomes such a positive response by governments in submitting the above instruments to the competent authorities, and particularly the very significant number of ratifications of Convention No. 182, for which 52 ratifications had been registered at the time of preparing this report. This number of ratifications of the Convention registered in such a short time demonstrates the great importance that governments attach to this new instrument to combat the worst forms of child labour.

160. Furthermore, while the above is significant, the Committee cannot let the opportunity pass of drawing attention to the number of ratifications which have also been registered for the Minimum Age Convention, 1973 (No. 138). As already indicated,

[56] Report of the Committee of Experts on the Application of Conventions and Recommendations, ILC, 85th Session 1997, Report III (Part 1A), p. 19.

[57] GB.274/3, 274th Session, March 1999, p. 71.

[58] *Decent work*, Report of the Director-General, ILC, 87th Session, 1999, p. 7.

Convention No. 138 continues to be the key instrument in combating child labour. Since the last session of the Committee, another 19 ratifications have been registered, making a total of 103. The Committee notes that this is double the number of ratifications registered in 1995, the year in which the campaign began for the ratification of fundamental Conventions. The Committee hopes that governments will continue endorsing this instrument, to determine and guide their policies in combating child labour, whatever form it takes; strengthening their education and social support systems so that children who have access to school can remain there and complete, at the very least, their compulsory education; establishing and maintaining support programmes for children who are released from work; and consolidating their employment programmes for adults, which benefit the workers' children.

161. As indicated previously, the Committee expresses great interest in the information provided on the measures taken to give full effect to the minimum age Conventions. In this respect, the Committee wishes to recall that information concerning the real situation of child labour, the numbers of children who are really attending school and the strengthening of inspection systems for the supervision of compliance with provisions prohibiting child labour, are all elements which, among others, make it possible to assess the application in practice of the Conventions respecting child labour.

162. The Committee trusts that the efforts made by the Office, in particular through its International Programme for the Elimination of Child Labour (IPEC), will make it possible for governments to either establish or strengthen programmes which provide them with means to combat child labour in all its forms. In this regard, the Committee notes with interest that over 50 countries have concluded Memorandums of Understanding (MOUs) with IPEC and another 23 are carrying out activities in the context of IPEC without having yet made formal engagement. The Committee trusts that the activities undertaken with the support of IPEC will enable these countries to continue their work of eliminating child labour and hopes that in future reports they will provide detailed information on the progress achieved. The Committee also hopes that the ILO Statistical Information and Monitoring Programme on Child Labour (SIMPOC) will contribute, where it is being implemented, to the compilation of the required statistical information on child labour, which is still lacking in many countries. Such information is essential to determine the extent of child labour, as are the activities undertaken for its elimination.

III. Technical assistance in the field of standards

Direct contacts

163. Direct contact missions were carried out during the past year to **Belarus** and **Indonesia** upon the recommendations of the Committee on Freedom of Association, and to **Colombia** upon the recommendation of the Committee on Freedom of Association and in connection with the complaint under article 26 of the Constitution.

Promotional activities

164. Since the last meeting of the Committee of Experts, several regional and subregional seminars and symposia on international labour standards and freedom of

association have been held: a national seminar on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (**Estonia**, April 2000); a tripartite subregional East African seminar on discrimination in the world of work (**Uganda**, April 2000); a national tripartite seminar on the Seafarers' Identity Documents Convention, 1958 (No. 108), and the Recruitment and Placement of Seafarers Convention, 1996 (No. 179) (**India**, May 2000); and two national seminars on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (**China**, September 2000).

165. Other activities from headquarters for the promotion of standards took the form of participation in seminars, workshops, symposia and meetings, as well as the provision of technical advisory services, technical assistance and consultations concerning international labour standards for: **Angola, Argentina, Austria, Bangladesh, Belarus, Benin, Bosnia and Herzegovina, Brazil, China, China** (Special Administrative Region of Hong Kong), **Colombia, Costa Rica, Cuba, Czech Republic, Democratic Republic of the Congo, Dominican Republic, Estonia, European Union, France, Germany, Guinea, India, Indonesia, Italy, Kazakhstan, Kyrgyzstan, Malta, Mexico, Morocco, Netherlands, Norway, Pakistan, Paraguay, Philippines, Poland, Portugal, Russian Federation, Senegal, Spain, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, United Kingdom, United States, Uruguay, Viet Nam, Zimbabwe**.

166. The Committee notes with satisfaction that the International Labour Standards Department continues to organize the annual training course for government officials responsible for reporting on international labour standards, which is held at the Turin Centre and in Geneva during the two weeks immediately preceding the June Conference. Many of the fellows stay on in Geneva to participate in the work of the Conference Committee. This year the course was attended by 29 participants from 25 countries.

167. The Committee also notes the new training activities developed by the Turin Centre in cooperation with the International Labour Standards Department including courses for lawyers and legal educators; labour standards, productivity improvement and enterprise development; ILS and globalization; and the rights of women workers. In addition, officials of the International Labour Standards Department make presentations on standards on a regular basis to training courses on other subjects organized by the Turin Centre.

168. For several years, the department has been carrying out activities for the promotion of the ILO standards system by holding seminars on standards and the ILO legal information system. The Committee continues to note the training provided to constituents on the use of ILOLEX, a database on international labour standards, and NATLEX, a database on national legislation in respect of labour, social security and related human rights questions, as well as an average of 80,000 requests for information on international labour standards and national labour legislation on the ILO website.[59] The General Surveys under article 19 of the Constitution are now available in ILOLEX for the years 1985 through 2000; as to NATLEX, approximately 3,000 abstracts of national legislative texts on labour, social security and related human rights issues from about 180 countries were introduced in the database in the course of the last year. The

[59] The address of this site is: www.ilo.org.

database now contains more than 50,000 records. In addition to this, 370 full legislative texts have been included in the database while an average of ten new texts are introduced each month.

169. The Committee welcomes a new activity being undertaken by the Office, the Global Programme on HIV/AIDS in the World of Work. With an estimated 33 million persons living with HIV/AIDS in 1999, two-thirds of them in sub-Saharan Africa, and over 5 million newly infected in 1999 alone, HIV/AIDS is an immense human and social tragedy. It is also now beginning to be more widely, if belatedly, understood that HIV/AIDS is a major threat to the world of work. HIV/AIDS is a major factor undermining the achievement of decent work. Preventing the future spread of the disease is vital for all the parties in the world of work and respect for the rights of persons living with HIV/AIDS is also essential for effective prevention. Through its tripartite structure, the ILO has the unique ability to reach workers and mobilize enterprises for the prevention of HIV/AIDS. So far, the ILO has essentially based its response to HIV/AIDS on the principles set out in some of its instruments – e.g. the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Occupational Safety and Health Convention, 1981 (No. 155), and the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) – and on the Joint WHO/ILO Statement on HIV/AIDS and the Workplace (1988). However, at its 88th Session (June 2000) the International Labour Conference adopted a resolution concerning HIV/AIDS and the world of work, and the ILO Global Programme on HIV/AIDS in the World of Work was established.

Multidisciplinary advisory teams and technical cooperation

170. The Committee notes that specialists in international labour standards are in place in 14 of the 16 multidisciplinary advisory teams. Thus, the teams in Abidjan, Addis Ababa, Bangkok, Beirut, Dakar, Harare, Lima, Manila, Moscow, New Delhi, Port-of-Spain, San José, Santiago de Chile and Yaoundé now have a standards specialist in some cases assisted by an associate expert. The missions and assistance which are needed in the field of standards in relation to the teams in Budapest and Cairo are carried out from headquarters. The Committee recalls the importance of the services provided by the multidisciplinary advisory teams, which consist of assisting constituents to fulfil the obligations deriving from the Constitution and ratified Conventions and promoting social dialogue in this field. The standards specialists play an important role in the context of the Director-General's campaign for the ratification of the ILO's fundamental Conventions, as well as in the promotion and application of other Conventions and the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work.

171. The Committee notes with satisfaction the continued efforts made by standards specialists in obtaining reports and full particulars concerning the application of Conventions and in facilitating dialogue with the competent national authorities and social partners with a view to finding solutions to unresolved issues. Their work makes a major contribution to the sound operation of the supervisory system. The Committee notes once again the constant efforts made by the International Labour Standards Department to assist standards specialists in their work.

172. The Committee once again emphasizes the importance of technical cooperation in the field of standards and reaffirms its support for the action taken by

Office to respond to the ever-increasing number of requests for assistance to facilitate the ratification and implementation of Conventions. As indicated in the resolution and conclusions concerning the role of the ILO in technical cooperation adopted by the Conference in June 1999, technical cooperation can assist in the ratification of international labour standards and help the countries which have ratified standards to implement them effectively. The Committee hopes that the information contained in its report will be useful for the development of technical cooperation programmes and the compliance by member States with their obligations under the Constitution of the ILO and the Conventions which they have ratified.

IV. Role of employers' and workers' organizations

173. At each session, the Committee draws the attention of governments to the role that employers' and workers' organizations are called upon to play in the application of Conventions and Recommendations and to the fact that numerous Conventions require consultation with employers' and workers' organizations, or their collaboration in a variety of measures. The Committee notes that almost all governments have indicated in the reports supplied under articles 19 and 22 of the Constitution the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, they have communicated copies of the reports supplied to the Office. Almost all governments have indicated the organizations to which they have communicated copies of the information supplied to the Office on the submission to the competent authorities of the instruments adopted by the Conference.

174. In accordance with established practice, in April 2000 the Office sent to the representative organizations of employers and workers a letter outlining the various opportunities open to them of contributing to the implementation of Conventions and Recommendations, accompanied by relevant documentary material, and a list of the reports due from their respective governments and copies of the Committee's comments to which the governments were invited to reply in their reports.

Observations made by employers' and workers' organizations

175. Since its last session, the Committee has received 311 observations (compared to 257 last year), 53 of which were communicated by employers' organizations and 258 by workers' organizations. It shows again the interest of employers' and workers' organizations in the implementation of ILO standards and reflects the constant efforts made by the supervisory bodies and the Office to give interested organizations complete information on their role in this area. The Committee stresses the importance it attaches to this contribution by employers' and workers' organizations to the tasks of the supervisory bodies, which is essential for the Committee's evaluation of the application of ratified Conventions in law and in practice. It invites the employers' and workers' organizations to continue and augment their contribution to the supervisory system.

176. The majority of observations received (293) relate to the application of ratified Conventions (see list in the appendix, page 75). Eighteen observations relate to

the reports provided by governments under article 19 of the Constitution of the ILO relating to the Night Work (Women) Convention, 1919 (No. 4); the Night Work (Women) Convention (Revised), 1934 (No. 41); the Night Work (Women) Convention (Revised), 1948 (No. 89); and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948.[55]

177. The Committee notes that, of the observations received this year, 186 were transmitted directly to the Office which, in accordance with the practice established by the Committee, referred them to the governments concerned for comment. In 125 cases the governments transmitted the observations with their reports, sometimes adding their own comments.

178. The Committee also examined a number of other observations by employers' and workers' organizations, consideration of which had been postponed from the last session because the observations of the organizations or the replies of the governments had arrived just before or just after the session. It has had to postpone the examination of a number of observations to its next session, when they were received too close to or even during the Committee's present session to allow sufficient time for the governments concerned to make comments and for the Committee to consider the matters involved.

179. The Committee notes that in most cases the employers' and workers' organizations endeavoured to gather and present precise elements of law and fact on the application in practice of ratified Conventions. Unfortunately, in some instances there has been insufficient information provided by the organizations for the Committee to deal with the topic raised. It is important for organizations to give adequate detail to enable the Committee to assess whether or not there is conformity with the Convention concerned. Once an issue is adequately identified, it is incumbent upon the government to properly investigate the allegations and thereafter inform the Committee of the result.

180. The Committee notes that the matters dealt with in these observations have touched on a very wide range of Conventions relating, in particular, to the following subjects: protection of the right to organize and the right to collective bargaining, discrimination, forced labour, child labour, wage payment, minimum wage fixing, occupational safety and health, employment policy, labour inspection, tripartite consultations relating to international labour standards, maritime labour and social security. The second part of this report contains most of the comments made by the Committee on cases in which the comments raised matters relating to the application of

[55] **Austria:** Federal Chamber of Labour (BAK). **Barbados:** Barbados Workers' Union (BWU). **Brazil:** General Confederation of Workers; National Confederation of Transport (CNT). **Canada:** Canadian Employers Council (CEC). **Finland:** Central Organization of Finnish Trade Unions (SAK). **Republic of Korea:** Korea Employers' Federation (KEF); Korean Confederation of Trade Unions (KCTU). **Mauritius:** Mauritius Employers' Federation (MEF). **Mexico:** Confederation of Workers of Mexico (CTM). **Namibia:** Namibian Employers' Federation. **New Zealand:** New Zealand Council of Trade Unions (NZCTU); New Zealand Employers' Federation (NZEF). **Portugal:** General Confederation of Portuguese Workers (CGTP-IN). **Sri Lanka:** Employers' Federation of Ceylon (EFC); Lanka Jathika Estate Workers' Union (LJEWU). **Turkey:** Confederation of Turkish Trade Unions (TURK-IS); Turkish Confederation of Employers' Associations (TISK).

ratified Conventions. Where appropriate, other comments are examined in requests addressed directly to the governments.

181. The Committee notes that, with 99 ratifications, the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), is now binding on over half the member States. In its General Survey on this subject last year,[61] the Committee emphasized that tripartite dialogue is essential in carrying out all the work of the ILO. In this respect, it envisaged the universal application in the not too distant future of the 1976 instruments, which set forth effective procedures for consulting employers' and workers' representatives on each of the measures to be taken in relation to international labour standards. The Committee hopes that many other countries will envisage ratifying Convention No. 144 in the near future.

V. Reports on ratified Conventions
(articles 22 and 35 of the Constitution)

Supply of reports

182. The Committee's principal task consists of the examination of the reports supplied by governments on Conventions which have been ratified by member States or which have been declared applicable to non-metropolitan territories.

183. In accordance with the decision to modify the regular supervisory procedures, adopted by the Governing Body at its 258th Session (November 1993), reports were requested this year on 32 ratified Conventions.[62] These reports cover the period ending 1 September 2000. Furthermore, detailed reports were also requested from certain governments on other Conventions, in accordance with the criteria approved by the Governing Body concerning the obligation to send reports more frequently.[63] The procedures which are followed and established practice with regard to the obligations relating to international labour standards are found in the *Handbook of procedures relating to international labour Conventions and Recommendations*.

Reports requested and received

184. A total of 2,550 reports were requested from governments on the application of Conventions ratified by member States (article 22 of the Constitution). At the end of the present session of the Committee, 1,798 of these reports had been received by the Office. This figure corresponds to 70.5 per cent of the reports requested, compared with only 61.4 per cent last year. The Committee welcomes the fact that the percentage of reports received rose significantly. It sincerely hopes that the reversal of the downward trend will continue in the coming years. A table showing reports received and not received, classified by country and by Convention, is to be found in Part Two (section I,

[61] *Tripartite consultation*, ILC, 88th Session, 2000, Report III (Part 1B).

[62] Conventions Nos. 6, 14, 22, 23, 24, 25, 29, 52, 55, 56, 71, 77, 78, 79, 87, 90, 94, 95, 97, 100, 101, 106, 107, 114, 115, 122, 124, 129, 132, 138, 140, 143.

[63] GB.258/LILS/6/1 (Nov. 1993), para. 12(c).

Appendix I). Another table (section I, Appendix II) shows, for each year in which the Conference has met since 1932, the number and percentage of reports received by the prescribed date, by the date of the meeting of the Committee, and by the date of the session of the International Labour Conference.

185. In addition, 393 reports were requested on Conventions declared applicable with or without modifications to non-metropolitan territories (articles 22 and 35 of the Constitution). Of these, 247 reports, 62.9 per cent, had been received by the end of the Committee's session, in comparison with 59.9 per cent last year. A list of the reports received and not received, classified by territory and by Convention, is to be found appended to section II of Part Two of this report.

186. In those cases in which the reports were not accompanied by copies of the relevant legislation, statistical data or other documentation necessary for their full examination, and where this material was not otherwise available, the Office, as requested by the Committee, wrote to the governments concerned asking them to supply the necessary texts to enable the Committee to fulfil its task.

Compliance with reporting obligations

187. Most of the governments from which reports were due on the application of ratified Conventions have supplied all or most of the reports requested, as can be seen from Appendix I, Part Two, section I. However, some governments have not complied with their obligation to supply reports on ratified Conventions. Thus, all or the majority of the reports due this year have not been received from the following 25 countries: **Albania, Antigua and Barbuda, Belize, Cameroon, Congo, Côte d'Ivoire, Czech Republic, Denmark** (Greenland), **Fiji, Gabon, Georgia, Haiti, Jamaica, Liberia, Mongolia, Myanmar, Netherlands** (Aruba, Netherlands Antilles), **Nigeria, Papua New Guinea, Saint Lucia, Slovakia, Tajikistan, United Republic of Tanzania, United Republic of Tanzania** (Tanganyika), **United Kingdom** (Anguilla, Bermuda, Falkland Islands (Malvinas), Gibraltar, Guernsey, Isle of Man, Jersey, Montserrat, St. Helena), **Viet Nam**. No reports have been received for the past two or more years from the following 17 countries: **Afghanistan, Armenia, Bosnia and Herzegovina, Botswana, Central African Republic, Democratic Republic of the Congo, Denmark** (Faeroe Islands), **Equatorial Guinea, Kyrgyzstan, Lao People's Democratic Republic, Sao Tome and Principe, Sierra Leone, Solomon Islands, United Republic of Tanzania** (Zanzibar), **The former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan**.

188. The Committee urges the governments of these countries, and also of those which have sent only some of the reports due, to make every effort to supply the reports requested on ratified Conventions. Where no reports have been sent for a number of years, it is likely that particular problems of an administrative or technical nature are preventing the government concerned from fulfilling its obligations under the ILO Constitution, and it may be that in cases of this kind assistance from the Office, in particular with the help of members of multidisciplinary advisory teams who are specialists on international labour standards, could enable the government to overcome its difficulties.

Late reports

189. The Committee is increasingly concerned about the number of reports being received after the prescribed time period, especially given the large number of reports received this year. The reports due on ratified Conventions were to be sent to the Office between 1 June and 1 September 2000. Due consideration is given, when fixing this date, particularly to the time required to translate the reports, where necessary, to conduct research into legislation and other necessary documents, and to examine reports and legislation. The supervisory procedure can function correctly only if reports are communicated in due time. This is particularly true in the case of first reports or reports on Conventions where there are serious or continuing discrepancies, which the Committee has to examine in greater depth.

190. The Committee observes that the great majority of reports are received between the time limit fixed and the date on which the Committee meets: by 1 September 2000, the proportion of reports received was only 29 per cent. This percentage is higher than for its previous session (22.7 per cent) and also the highest for the last 50 years. The Committee welcomes this result and hopes that this increase continues in the future. In fact, it is often first reports and those relating to Conventions on which the Committee has made comments that are received the latest. In these circumstances, the Committee has been bound in recent years to postpone to its following session the examination of an increasing number of reports, since they could not be examined with the necessary care owing to lack of time. It has thus had to examine a number of reports at its present session which had previously been deferred.

191. In spite of the progress made this year, the Committee wishes to draw attention to the importance of the governments transmitting reports within the prescribed time limits. The majority of reports received from governments continued this time to arrive in the last three months before the Committee's meeting or even during it. This obviously places a huge strain on the supervisory process and effectively makes it impossible for particular cases to be dealt with adequately or at all. These problems will continue to increase with the success of the ratification campaign on fundamental Conventions and an increase in the number of member States.

192. The Committee has noted with interest the efforts made by the Office – particularly through the standards specialists – to assist in ensuring the fulfilment of reporting obligations and welcomes the progress that was made this year. It nevertheless appeals to all governments to continue to examine the means by which their labour administrations can best take advantage of the new reporting arrangements and make sure the obligations are fulfilled within the prescribed time limits.

193. Furthermore, the Committee notes that a number of countries sent some or all of the reports due on ratified Conventions during the period between the end of the Committee's December 1999 session, and the beginning of the May-June 2000 Session of the International Labour Conference, or even during the Conference.[64] The Committee emphasizes that this practice disturbs the regular operation of the supervisory system and

[64] For the reports received and not received by the end of the Conference, see Report of the Committee on the Application of Standards, Part Two, IC and IIB (*Provisional Record* No. 23, 88th Session, ILC, 2000).

makes it more burdensome. It wished to provide the following list of those countries for 1999-2000 as requested by the Conference Committee on the Application of Standards: **Antigua and Barbuda** (Conventions Nos. 29, 81, 87, 111, 138), **Barbados** (Conventions Nos. 11, 42, 63), **Belize** (Conventions Nos. 11, 12, 42, 81, 89, 98), **Benin** (Convention No. 105), **Bolivia** (Conventions Nos. 103, 131, 138, 159, 162), **Cape Verde** (Conventions Nos. 17, 81, 98, 105), **Costa Rica** (Conventions Nos. 127, 148), **Côte d'Ivoire** (Convention No. 105), **Cyprus** (Conventions Nos. 105, 121, 138, 144, 150, 154, 158, 159, 160, 162, 172), **Czech Republic** (Convention No. 155), **Denmark** (Conventions Nos. 88, 130, 144), **Denmark** – Greenland (Convention No. 105), **El Salvador** (Convention No. 81), **Ethiopia** (Conventions Nos. 87, 98, 111, 155, 158, 159), **France** – French Guiana (Convention No. 12), Guadeloupe (Conventions Nos. 12, 35, 36, 37, 38, 42, 92, 100, 129, 131, 142, 149), Martinique (Convention No. 12), St. Pierre and Miquelon (Convention No. 12), **Ghana** (Conventions Nos. 11, 29, 69, 81, 88, 89, 103, 148), **Grenada** (Conventions Nos. 5, 8, 10, 11, 12, 16, 29, 58, 81, 98, 105), **Guinea** (Conventions Nos. 29, 81, 87, 98, 100, 105, 117, 136, 142, 148), **Guinea-Bissau** (Conventions Nos. 29, 81, 88, 100, 111), **Iraq** (Conventions Nos. 16, 27, 42, 81, 88, 89, 137, 144, 147, 148, 150, 153), **Israel** (Conventions Nos. 111, 150), **Jamaica** (Convention No. 144), **Lesotho** (Conventions Nos. 11, 98), **Libyan Arab Jamahiriya** (Conventions Nos. 1, 29, 52, 53, 81, 88, 95, 100, 102, 103, 105, 111, 118, 121, 122, 128, 130, 138), **Madagascar** (Conventions Nos. 11, 12, 29, 41, 100, 111, 127), **Mali** (Conventions Nos. 141, 151), **Malta** (Conventions Nos. 2, 8, 11, 12, 16, 19, 42, 88, 96, 108, 111, 135, 141, 149, 159), **Netherlands** – Netherlands Antilles (Conventions Nos. 11, 12, 17, 42, 81, 89, 105), **Niger** (Conventions Nos. 11, 18, 41, 81, 87, 98, 105, 111, 117, 119, 131, 135, 138, 142, 148, 154, 156, 158), **Saint Lucia** (Convention No. 98), **San Marino** (Conventions Nos. 105, 154), **Slovakia** (Conventions Nos. 11, 42, 161), **Slovenia** (Conventions Nos. 121, 122, 148, 155, 156, 159, 161, 162), **South Africa** (Convention No. 63), **Sri Lanka** (Convention No. 108), **Sweden** (Conventions Nos. 11, 12, 81, 98, 105, 111, 121, 147, 148, 149, 150, 151, 154, 155, 156, 157, 158, 159, 160, 161, 162, 164, 174, 176), **Syrian Arab Republic** (Conventions Nos. 11, 17, 18, 19, 63, 81, 89, 105, 111, 118), **Tajikistan** (Conventions Nos. 11, 100, 159), **United Republic of Tanzania** (Convention No. 142), **Trinidad and Tobago** (Conventions Nos. 100, 144), **United Kingdom** – Gibraltar (Convention No. 42), **Uruguay** (Conventions Nos. 63, 81, 98, 111, 120, 121, 131, 148, 149, 150, 151, 154, 155, 156, 159, 161, 162), **Zambia** (Convention No. 150).

Supply of first reports

194. A total of 88 of the 155 first reports due on the application of ratified Conventions were received by the time that the Committee's session ended. However, a number of countries have failed to supply first reports, some of which are more than a year overdue. Thus, certain first reports on ratified Conventions have not been received from the following 12 States: since 1992 – **Liberia** (Convention No. 133); since 1995 – **Armenia** (Convention No. 111), **Kyrgyzstan** (Convention No. 133); since 1996 – **Armenia** (Conventions Nos. 100, 122, 135, 151), **Grenada** (Convention No. 100), **Uzbekistan** (Conventions Nos. 47, 52, 103, 122); since 1998 – **Armenia** (Convention No. 174), **Equatorial Guinea** (Conventions Nos. 68, 92), **Georgia** (Convention No. 105), **Mongolia** (Convention No. 135), **Uzbekistan** (Conventions Nos. 29, 100); and since 1999 – **Botswana** (Conventions Nos. 29, 87, 95, 98, 100, 105, 111, 138, 144, 151,

173, 176), **Burkina Faso** (Conventions Nos. 141, 161, 170), **Cyprus** (Convention No. 175), **Georgia** (Convention No. 117), **Turkmenistan** (Conventions Nos. 29, 87, 98, 100, 105, 111), **Uzbekistan** (Conventions Nos. 98, 105, 111, 135, 154).

195. First reports have particular importance since it is the basis on which the Committee makes its initial assessment of the observance of ratified Conventions. The Committee therefore requests the governments concerned to make a special effort to supply these reports.

Replies to the comments of the supervisory bodies

196. Governments are requested to reply in their reports to the observations and direct requests of the Committee, and the majority of governments have provided the replies requested. In accordance with the established practice, the International Labour Office wrote to all the governments who failed to provide such replies, requesting them to supply the necessary information. Of the 52 governments to which such letters were sent, only 14 have provided the information requested.

197. The Committee notes that there are still many cases of failure to reply to its comments; either:

(a) out of all the reports requested from governments, no report or reply has been received; or

(b) the reports received contained no reply to most of the Committee's comments (observations and/or direct requests) and/or did not reply to the letters sent by the Office.

198. In all there were 389 such cases (concerning 42 countries),[65] as compared with 411 (concerning 46 countries) last year. It is bound to repeat the observations or direct requests already made on the Conventions in question.

[65] **Afghanistan** (Conventions Nos. 41, 95, 100, 105, 111, 137, 140, 141, 142); **Albania** (Conventions Nos. 16, 29, 87, 100); **Algeria** (Conventions Nos. 13, 24, 77, 78, 87, 94, 97, 127, 138, 142); **Antigua and Barbuda** (Conventions Nos. 29, 81, 138); **Belize** (Conventions Nos. 5, 22, 29, 87, 88, 95, 105, 115); **Bosnia and Herzegovina** (Conventions Nos. 81, 87, 111, 122, 158); **Cameroon** (Conventions Nos. 9, 29, 78, 87, 94, 97, 98, 100, 106, 111, 122, 132, 143, 158, 162); **Central African Republic** (Conventions Nos. 17, 19, 29, 41, 52, 62, 81, 87, 94, 95, 100, 105, 111, 118); **Congo** (Conventions Nos. 29, 87); **Côte d'Ivoire** (Conventions Nos. 29, 52, 87, 95, 129, 133); **Czech Republic** (Conventions Nos. 14, 29, 87, 100, 122, 130, 132, 161); **Democratic Republic of the Congo** (Conventions Nos. 26, 29, 62, 81, 88, 94, 95, 98, 100, 117, 118, 119, 121, 158); **Denmark:** Faeroe Islands (Conventions Nos. 9, 16, 92), Greenland (Conventions Nos. 6, 14, 106, 122); **Dominica** (Conventions Nos. 81, 87, 100, 138); **Egypt** (Conventions Nos. 55, 56, 87, 94, 100, 106, 115); **Equatorial Guinea** (Conventions Nos. 1, 30, 138); **Fiji** (Conventions Nos. 8, 29, 105); **France:** Réunion (Conventions Nos. 42, 115, 149); **Gabon** (Conventions Nos. 11, 29, 52, 81, 87, 95, 98, 100, 105, 111, 124, 135, 144, 154, 158); **Guatemala** (Conventions Nos. 29, 94, 100, 122, 129, 138); **Haiti** (Conventions Nos. 14, 24, 25, 29, 87, 106); **Jamaica** (Conventions Nos. 8, 29, 87, 94, 97, 98, 100, 111, 122, 149, 150); **Kyrgyzstan** (Conventions Nos. 14, 23, 29, 52, 77, 78, 79, 87, 95, 98, 100, 108, 122, 124, 147, 148, 149, 159, 160); **Lao People's Democratic Republic** (Conventions Nos. 4, 6, 29); **Liberia** (Conventions Nos. 22, 29, 55, 87, 114, 133); **Libyan Arab Jamahiriya** (Conventions Nos. 81, 88, 95, 98, 100, 103, 111, 118, 121, 122, 128, 130, 138); **Mauritania** (Conventions Nos. 3, 29, 81, 87, 94, 95, 102, 114, 118, 122); **Mongolia** (Conventions Nos. 103, 122); **Myanmar** (Conventions Nos. 22, 26, 29, 52, 87); **Netherlands:**

199. The failure of the governments concerned to fulfil their obligations considerably hinders the work of the Committee of Experts and that of the Conference Committee, and the Committee of Experts cannot overemphasize the special importance of ensuring the dispatch of the reports and replies to its comments on time.

Examination of reports

200. In examining the reports received on ratified Conventions and Conventions declared applicable to non-metropolitan territories, the Committee follows its usual practice of assigning to each of its members the initial responsibility for a group of Conventions. Reports received early enough are sent to the members concerned in advance of the Committee's session. The members submit their preliminary conclusions on the instruments for which they are responsible to all their colleagues for their examination. These conclusions are then presented to the Committee in plenary sitting by their respective authors for discussion and approval. Decisions on comments are adopted by consensus, without prejudice to experts who wish to put forward different opinions.

Observations and direct requests

201. In many cases, the Committee has found that no comment is called for regarding the way in which a ratified Convention has been implemented. In other cases, however, the Committee has found it necessary to draw the attention of the governments concerned to the need to take further action to give effect to certain provisions of Conventions or to supply additional information on given points. As in previous years, its comments have been drawn up in the form either of "observations" which are reproduced in the report of the Committee, or "direct requests", which are not published in the report, but are communicated directly to the governments concerned.[66]

202. As in the past, the Committee has indicated by footnotes the cases in which, because of the nature of the problems met in the application of the Conventions concerned, it has seemed appropriate to ask the government to supply a detailed report

Aruba (Conventions Nos. 14, 25, 29, 87, 94, 95, 101, 106, 121, 122, 131, 135, 137, 138, 140, 142, 145, 146), Netherlands Antilles (Conventions Nos. 87, 94, 106, 122); **Nigeria** (Conventions Nos. 26, 29, 87, 88, 95, 97, 100, 105, 133); **Papua New Guinea** (Conventions Nos. 29, 122); **Saint Lucia** (Conventions Nos. 5, 17, 19, 29, 87, 94, 95, 97, 100, 111); **Sao Tome and Principe** (Conventions Nos. 17, 18, 81, 87, 88, 98, 100, 111, 144, 159); **Sierra Leone** (Conventions Nos. 8, 17, 26, 29, 59, 88, 95, 98, 99, 100, 101, 105, 111, 119, 125, 126, 144); **Slovakia** (Conventions Nos. 87, 89, 90, 95, 115, 122, 148, 155, 159); **Solomon Islands** (Conventions Nos. 8, 14, 29, 95); **Tajikistan** (Conventions Nos. 14, 23, 29, 52, 77, 78, 87, 95, 100, 115, 122, 124, 138); **United Republic of Tanzania** (Conventions Nos. 17, 63, 94, 95, 98, 105, 137, 140, 148, 149); **The former Yugoslav Republic of Macedonia** (Convention No. 87); **United Kingdom:** Anguilla (Conventions Nos. 22, 23, 94, 140), Bermuda (Conventions Nos. 82, 94, 115), Gibraltar (Conventions Nos. 22, 29, 100), Guernsey (Conventions Nos. 24, 25, 56, 115), Jersey (Conventions Nos. 22, 115, 140); **Viet Nam** (Conventions Nos. 6, 14).

[66] ILO: *Handbook of procedures relating to international labour Conventions and Recommendations*, Geneva, Rev.2/1998, para. 54(k).

earlier than would otherwise have been the case. Under the present reporting cycle,[67] which applies to most Conventions, such early reports have been requested after an interval of either one or two years, according to circumstances. In some instances, the Committee has also requested the government to supply full particulars to the Conference at its next session in June 2001.

203. The observations of the Committee appear in Part Two (sections I and II) of this report, together with a list under each Convention of any direct requests. An index of all observations and direct requests, classified by country, is provided at the beginning of this report.

Practical application

204. As in previous years, the Committee has been concerned with assessing, on the basis of the information available, the extent to which national legislation giving effect to ratified Conventions is applied in practice. A number of questions designed to elicit information on this point are included in the report forms approved by the Governing Body for the Conventions, and the replies of governments to these questions constitute an appreciable, though uneven, source of information on practical application available to the Committee. The Committee has also taken into account other authoritative sources of information. These consist, in particular, of reports from other international or regional organizations, the annual reports of labour inspection services, statistical yearbooks published in the States or by the ILO, observations of employers' or workers' organizations, compilations of judicial or administrative decisions, reports on direct contacts, reports on technical cooperation projects and missions, and other official publications such as manuals, studies and economic and social development plans.

205. The Committee notes that this year some 56.5 per cent of the reports supplied on Conventions for which information on practical application was specifically requested contained such data. The Committee reiterates its appeal to all governments to continue to make every effort to include the information requested in their future reports.

206. The following 40 countries, compared to 31 countries last year, have provided information on practical application in more than half the reports concerned: **Austria, Bahamas, Belgium, Cape Verde, Chad, Chile, Colombia, Comoros, Costa Rica, Croatia, Denmark, Ecuador, El Salvador, Estonia, Finland, Grenada, Guinea-Bissau, Hungary, Israel, Kenya, Latvia, Lesotho, Madagascar, Mauritius, Netherlands, New Zealand, Nicaragua, Norway, Peru, Poland, Romania, Saint Vincent and the Grenadines, Sudan, Swaziland, Sweden, Trinidad and Tobago, United Kingdom, Uruguay, Yemen, Zimbabwe**.

207. The Committee wishes particularly to thank governments that have given information on practical application in their reports, as this information has greatly helped it in assessing more accurately the extent to which ratified Conventions are actually applied in these countries.

[67] After the first report, subsequent reports are requested every two years for the priority Conventions and every five years for other Conventions, divided into five equal groups (GB.258/6/19).